

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for General Permit Adoption

AGENDA REQUESTED: March 4, 2015

DATE OF REQUEST: February 13, 2015

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Derek Baxter, (512) 239-2613

CAPTION: Docket No. 2014-1737-MIS. Consideration of the adoption of the renewal with amendment of a Texas Pollutant Discharge Elimination System (TPDES) general permit authorizing the discharge of hydrostatic test water from new vessels; vessels that contained raw water, potable water, or elemental gases; or vessels that contained petroleum product or waste related to petroleum products. Public notice of the proposed draft permit was published in the October 24, 2014, issue of the *Texas Register* (39 TexReg 8447). (Laurie Fleet, Ashley McDonald) (Non-Rule Project No. 2014-024-OTH-NR).

L'Oreal W. Stepney, P.E.

Deputy Director

David W. Galindo

Division Director

Derek Baxter

Agenda Coordinator

Copy to CCC Secretary? NO YES X

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 13, 2015

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: L'Oreal W. Stepney, P.E., Deputy Director
Office of Water

Docket No.: 2014-1737-MIS

Subject: General Permit: Commission Approval for Adoption
Renewal of the Hydrostatic Test Waters General Permit No. TXG670000
Project No. 2014-024-OTH-NR

Summary and Background:

This is a renewal with amendments of a Texas Pollutant Discharge Elimination System (TPDES) general permit authorizing the discharge of hydrostatic test water from new vessels; vessels that contained raw water, potable water, or elemental gases; or vessels that contained petroleum product or waste related to petroleum products. The renewal with amendments will replace the current permit when it expires on April 5, 2015.

Basic Requirements:

A. Applicability:

TPDES General Permit No. TXG670000 authorizes the discharge of hydrostatic test water from new vessels; vessels that contained raw water, potable water, or elemental gases; or vessels that contained petroleum product or waste related to petroleum products.

B. Requirements:

Applicants must submit a Notice of Intent (NOI) to the TCEQ for discharges from vessels that contained a petroleum product. Provisional coverage will begin 48-hours after the postmark date. No NOI is required for discharges from new vessels, vessels that contained raw water, potable water or elemental gases.

Discharge of test water from vessels that contained a petroleum product are subject to numeric limitations for total petroleum hydrocarbons, total lead, benzene, total BTEX, and pH. Vessels that contained hyperchlorinated water are subject to a chlorine residual limit. Limitations are continued from the existing permit.

C. Fees:

Fees include a \$100 NOI application fee and a \$100 annual fee.

Number of Current/Expected Authorizations:

There are currently 84 facilities authorized by NOI submittals under this general permit. A significant number of additional NOIs are not expected.

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Proposed Changes from the Current Permit:

1. Clarifications were made throughout the draft permit to revise "product" to "petroleum product".
2. Portions of the draft permit were re-organized to improve readability. Specifically, consolidation of requirements related to discharges subject to the Edwards Aquifer rule in Part II. Section C.3., and consolidation of all non-compliance reporting requirements in Part III. Section B.10.b.
3. Part II. Section B.4 was added to clarify that this general permit does not authorize the use of domestic wastewater, reclaimed water, or wastewater generated by other industrial operations for hydrostatic testing and discharge under this general permit.
4. Part II. Section B.5 was revised to add additional limitations on coverage related to compliance history rating of "unsatisfactory performer" and pursuant to the October 23, 2013 Commissioner's Order on the Livestock Manure Composting General Permit No. WQG200000, the draft permit was similarly revised to clarify that an applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the commission prior to denial or suspension of authorization.
5. Part II. Section C.1 was revised to clarify that existing facilities authorized under the general permit that fail to submit a new NOI by the deadline will result in expiration of their authorization.
6. Part II. Section C.3 was revised to provide the current contact information for TCEQ Region 11.
7. Part III. Section B.1 was revised to allow alternative best management practices to prevent erosion. This revision is consistent with revisions made to the Petroleum Contaminated Waters General Permit No. TXG830000.
8. Part VI. was removed (regarding instructions for completing the discharge monitoring report (DMR) and the DMR forms). Permittees have access to the form and instructions for completing the form and the online Net DMR reporting system available through the TCEQ website.

Planned stakeholder involvement:

A letter was sent to facilities authorized by NOI submittals under the general permit advising them on the upcoming renewal and provided an opportunity to send in preliminary suggestions. Stakeholders were also notified of, and updated quarterly about, this project during the Water Quality Advisory Workgroup meetings.

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EPA Review:

On September 11, 2014, TCEQ received a letter from the United States Environmental Protection Agency (EPA) stating "the EPA has no objection to the issuance of the draft general permit." No changes were made to the permit as a result of the EPA review.

Public Comment:

Public comments were received from the Harris County Pollution Control Services Department. The commenter noted that it receives illicit discharge notifications from concerned citizens each year where a percentage of those discharges are confirmed as authorized discharges under this general permit. The commenter requested that the "local pollution control agency with jurisdiction" should also be provided notice prior to initiating discharges to be better prepared and informed in these types of situations. The proposed permit requires notification to the TCEQ regional office.

In response to this comment, the proposed general permit was revised to add the following requirement: When the discharge originates within the boundaries of a municipal separate storm sewer system (MS4), the permittee shall notify the appropriate MS4 operator in writing at least 48 hours prior to initiating the discharge.

Potential Controversial Concerns and Legislative Interest:

Legislative interest or issues with the public or the EPA are not anticipated.

Effect on the Community, Public, or Agency Programs

This renewal with amendments is not expected to have any effect on the regulated community, the public, or agency programs.

Key Dates in the Proposed General Permit Schedule:

Published notice in Texas Register and newspapers: October 24, 2014

End of Public Comment Period: November 24, 2014

Anticipated Adoption Date: March 4, 2015

Statutory authority:

- Texas Water Code (TWC), §26.121, which 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, which 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
- TWC, §26.040, which provides the commission with authority to amend rules to authorize waste discharges by general permit.

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Attachments: Proposed Permit and Fact Sheet

cc: Chief Clerk, 7 copies

**DOCKET NO. 2014-1737-MIS
General Permit No. TXG670000**

IN THE MATTER OF A RENEWAL WITH	§	BEFORE THE TEXAS
AMENDMENTS OF A TEXAS	§	COMMISSION ON
POLLUTANT DISCHARGE	§	ENVIRONMENTAL
ELIMINATION SYSTEM (TPDES)	§	QUALITY
GENERAL PERMIT AUTHORIZING THE	§	
DISCHARGE OF HYDROSTATIC TEST	§	
WATER FROM CERTAIN VESSELS	§	
	§	

COMMISSION RESOLUTION ISSUING A NEW GENERAL PERMIT

WHEREAS, under Texas Water Code (TWC), § 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 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 waters in the state;

WHEREAS, a renewal with amendments of a Texas Pollutant Discharge Elimination System (TPDES) general permit authorizing the discharge of hydrostatic test water from new vessels; vessels that contained raw water, potable water, or elemental gases; or vessels that contained petroleum product or waste related to petroleum products, was drafted and proposed by the Executive Director and is attached as Exhibit A;

WHEREAS, the TCEQ received a public comment on the general permit, and drafted a Response to Public Comment, 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, by this resolution, the Commission issues the General Permit and Response to Public Comment, attached as Exhibits A and B, respectively, as recommended by the Executive Director and as approved by the Commission during its March 4, 2015, public meeting.

Furthermore, the Commission directs staff to make any non-substantive changes to the general permit to satisfy *Texas Register* format requirements and requests that the general permit 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

Bryan W. Shaw, Ph.D., P.E., Chairman
For the Commission

Texas Commission on Environmental Quality

P.O. Box 13087 Austin, Texas 78711-3087



GENERAL PERMIT TO DISPOSE OF WASTEWATER
under provisions of Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

This permit supercedes and replaces
TPDES General Permit No. TXG670000 issued on April 1, 2010.

Hydrostatic test water from industrial and other facilities, located in the State of Texas,

may be discharged into or adjacent to water in the state, including exceptional, high, intermediate, limited or minimal aquatic life use receiving waters as designated in the Texas Surface Water Quality Standards,

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 or Commission), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this general permit does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. This includes, but is not limited to, property belonging 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 to use the discharge route.

This general permit and the authorization contained herein shall expire at midnight on April 5, 2020.

EFFECTIVE DATE: April 5, 2015

ISSUED DATE:

For the Commission

TPDES GENERAL PERMIT NUMBER TXG670000 RELATING TO
DISCHARGES OF HYDROSTATIC TEST WATER

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Part I. Definitions

The following words and terms, for the purposes of this general permit, shall have the following meanings.

Daily average limitations - The arithmetic average of results of analyses for a parameter from a minimum of four samples of the discharges that occur in a single calendar month. When results of analyses of four samples are not available in a single calendar month, the arithmetic average of the most recent results, not to exceed four, must be reported as the daily average concentration.

Daily maximum limitations -The maximum concentration measured on a single day within a single calendar month.

Discharge - 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.

Existing vessel - A vessel that has been used to store, transport, or otherwise contain a liquid, gaseous material, or petroleum product.

Facility - Any National Pollutant Discharge Elimination System (NPDES) “point source” (as defined in 40 Code of Federal Regulations (CFR) § 122.2) or any other facility or activity that is subject to regulation under the Texas Pollutant Discharge Elimination System (TPDES) program.

General permit - A permit issued under the provisions of Title 30 Texas Administrative Code (30 TAC), Chapter 205, authorizing the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code (TWC), § 26.040.

Grab sample - An individual sample collected in less than 15 minutes.

Hydrostatic test - A method of determining the structural integrity of a vessel by either introducing water into the vessel or submerging the empty vessel in water.

Hyperchlorinated -The treatment of potable water lines or other vessels with chlorine for disinfection purposes, typically following repair or partial replacement of the waterline or vessel, and subsequently flushing the contents.

Land application – The spraying or spreading of wastewater onto the land surface or the incorporation of wastewater into the soil in a way that causes no nuisance conditions and that uses the wastewater to either condition the soil or fertilize crops of vegetation grown in the soil.

Municipal separate storm sewer system (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(i) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act (CWA);

(ii) Designed or used for collecting or conveying stormwater;

(iii) Which is not a combined sewer;

(iv) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.2; and

(v) Which does not include very discrete systems such as those serving individual buildings. See also 40 CFR §§ 122.26(b)(4), (7), and (16).

New vessel - A vessel that has not been previously used to store, transport, or otherwise contain a liquid, gaseous material, or petroleum product.

Notice of change (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 (NOI) - A written submission to the Executive Director from an applicant requesting authorization under the terms of a general permit.

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

Operator – The person responsible for the overall operation of a facility.

Owner – The person who owns a facility or part of a facility.

Permittee – Any person issued an individual permit, order, or is authorized by a general permit.

Petroleum product - Crude oil or any refined or unrefined fraction or derivative of crude oil. Petroleum substance is limited to one, or a combination of, the substances or mixtures in the following list (except for any substance regulated as a hazardous waste under 30 TAC § 335.1, *Definitions*).

(a) Basic petroleum substances - Crude oils, crude oil fractions, petroleum feedstocks, and petroleum fractions.

- (b) **Motor fuels** - A petroleum substance that is typically used to operate internal combustion engines (including stationary engines and engines used in transportation vehicles and marine vessels), and is one of the following types of fuels: leaded or unleaded gasoline, aviation gasoline, No. 1 diesel fuel, No. 2 diesel fuel, or any grades of gasohol.
- (c) **Aviation gasolines** - Grade 80, Grade 100, and Grade 100-LL.
- (d) **Aviation jet fuels** - Jet A, Jet A-1, Jet B, JP-4, JP-5, and JP-8.
- (e) **Distillate fuel oils** - No. 1-D, No. 1, No. 2-D, and No. 2.
- (f) **Residual fuel oils** - No. 4-D, No. 4-light, No. 4, No. 5-light, No. 5-heavy, and No. 6.
- (g) **Gas-turbine fuel oils** - Grade O-GT, Grade 1-GT, Grade 2-GT, Grade 3-GT, and Grade 4-GT.
- (h) **Illuminating oils** - Kerosene, mineral seal oil, long-time burning oils, 300 oil, and mineral colza oil.
- (i) **Solvents** - Stoddard solvent, petroleum spirits, mineral spirits, petroleum ether, varnish makers' and painters' naphthas, petroleum extender oils, and commercial hexane.
- (j) **Lubricants** - Automotive and industrial lubricants.
- (k) **Building materials** - Liquid asphalt and dust-laying oils.
- (l) **Insulating and waterproofing materials** - Transformer oils and cable oils.
- (m) **Used oils** - Any oil or similar petroleum substance that has been refined from crude oil, used for its designed or intended purposes, and contaminated by physical or chemical impurities; including spent motor vehicle and aircraft lubricating oils (e.g., car and truck engine oil, transmission fluid, and brake fluid), spent industrial oils (e.g., compressor, turbine, bearing, hydraulic, metalworking, gear, electrical, and refrigerator oils), and spent industrial process oils.
- (n) **Any other petroleum-based material** that has physical and chemical properties similar to the above materials and receives approval by the Executive Director for designation as a petroleum substance.
- (o) **Examples of materials that are not petroleum substances include:** aldehydes and ketones (e.g., acetone, methyl ethyl ketone); halogenated

solvents (e.g., carbon tetrachloride, trichloroethylene), alcohols (e.g., methanol), phenols, nitrogen-containing compounds and oils containing polychlorinated biphenyl compounds.

Site - The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

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

Texas Pollutant Discharge Elimination System (TPDES) Permit – The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under the CWA §§ 307, 402, 318, and 405, the TWC, and the 30 TAC regulations.

Vessel - Pipelines, tanks, and other similar containers used to store, transport, or otherwise contain a liquid, gaseous material, or petroleum product.

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 Authorization

Section A. Discharges Authorized

This general permit authorizes the discharge of water resulting from a hydrostatic test of a vessel into or adjacent to water in the state from:

1. New vessels;
2. Existing vessels that contain or previously contained or transferred raw or potable water, where the water used for hydrostatic tests does not contain corrosion inhibitors, antifreeze compounds, biocides, or other chemical additives (except chlorine or tracer dyes);
3. Existing vessels that previously contained only elemental gases (hydrogen, oxygen, nitrogen, etc.); and
4. Existing vessels that previously contained petroleum product or waste related to petroleum products.

Section B. Limitations on Authorization

1. Additional authorization may be required for discharges into or adjacent to water in the state, located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, as defined in 30 TAC Chapter 213, *Edwards Aquifer*. Also, see Part II.C.3 for discharges regulated under 30 TAC Chapter 213.
2. Discharges shall not be authorized by this general permit where prohibited by:
 - a. 30 TAC Chapter 311, *Watershed Protection*;
 - b. 30 TAC Chapter 213, *Edwards Aquifer*; or
 - c. Any other applicable rules or laws.
3. This general permit does not authorize discharges into or adjacent to water in the state from activities that are regulated by the Railroad Commission of Texas, including crude oil facilities.
4. This general permit does not authorize the use of domestic wastewater, reclaimed water, or wastewater generated by other industrial operations for hydrostatic testing and discharge under this general permit.
5. The Executive Director will deny an application for authorization under this general permit, and may require that the applicant apply for an individual permit, if the Executive Director determines that discharge activities will not maintain existing uses of receiving waters. Additionally, the Executive Director may cancel, revoke, or suspend authorization for discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. The Executive Director shall deny or suspend a facility's authorization for discharge under this general permit based on a rating of "unsatisfactory performer" according to Commission rules in 30 TAC §60.3, *Use of Compliance History*. An applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the Commission prior to having its authorization denied or suspended, in accordance with TWC § 26.040(h). Denial of authorization for discharge under this general permit will be done according to Commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*.
6. This general permit does not limit the authority of a home-rule municipality provided by Texas Local Government Code § 401.
7. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit, unless otherwise

allowable under 30 TAC Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standard(s) and are listed on the CWA § 303(d) list. Constituents of concern are those for which the water body is listed as impaired.

8. Discharges of the constituent(s) of concern to impaired water bodies where there is a total maximum daily load (TMDL) implementation plan are not eligible for this permit, unless they are consistent with the approved TMDL and the implementation plan. The Executive Director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for authorization under this permit, the discharger must apply for and receive an individual permit or be authorized under another applicable general TPDES permit prior to discharging.
9. Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.

Section C. Application for Authorization

1. Unless specifically exempted from the notification requirements under Part II, Section C.4., 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, specific description of its location, type of facility or discharges, and the receiving waters. Discharges 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. Failure to submit a new NOI by the deadline will result in expiration of the existing authorization to operate under the previous general permit.
2. 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 discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. Following review of the NOI, the Executive Director shall either confirm authorization under the general permit by providing a notification and an authorization number to the applicant or notify the applicant that authorization under this general permit is denied. If the TCEQ provides for electronic submittal of NOIs during the term of this general permit, unless otherwise notified by the Executive Director, authorization begins immediately following confirmation of receipt of the

NOI by the TCEQ. Applicants seeking authorization to discharge to a municipal separate storm sewer system (MS4) must provide a copy of the NOI to the operator of the system at the same time an NOI is submitted to the TCEQ.

3. For discharges located in areas regulated by 30 TAC Chapter 213, *Edwards Aquifer*, an authorization to discharge under this general permit is separate from the requirements of that chapter. Discharge may not commence for sites regulated under 30 TAC Chapter 213 until all applicable requirements in that chapter are met. For discharges located on or 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 offices shown below. The applicant may not discharge until authorization is received from the regional office.

Counties:
Comal, Bexar, Medina,
and Kinney

Contact:
TCEQ
Water Program Manager
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 78233-4480
(210) 490-3096

Counties:
Williamson, Travis, Hays

Contact:
TCEQ
Water Program Manager
Austin Regional Office
P.O. Box 13087
Austin, TX 78711-3087
(512) 339-2929

4. An NOI is not required if the discharger complies with all applicable permit conditions and:
 - a. The discharge is from a vessel listed in Part II.A.1-3; or
 - b. The discharge is from a vessel listed in Part II.A.4 and is land applied at the site with no resulting runoff to water in the state.
5. Authorization under this general permit is not transferable. If either the owner or operator of the regulated entity changes, then both the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. The NOT and NOI must be submitted no later than 10 days before the change. Permittees discharging to an MS4 must submit a copy of the NOT to the operator of the system at the same time the NOT is submitted to the TCEQ.

6. If the owner or operator becomes aware that he or she failed to submit any relevant facts, or submitted incorrect information, or if relevant 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. Permittees discharging to an MS4 must submit a copy of any NOC to the operator of the system at the same time the NOC is submitted to the TCEQ.

Section D. Termination of Authorization

A permittee shall terminate authorization under this general permit through the submittal of an NOT, on a form approved by the Executive Director, when the owner or operator of the facility changes; the discharge becomes authorized under an individual permit; the use of the property changes and is no longer subject to regulation under this general permit; or the discharge becomes unnecessary, is delayed, or is completed. Authorization terminates on the date the NOT is postmarked for delivery to the TCEQ. If electronic submission of the NOT is provided, authorization to discharge under this permit terminates immediately following confirmation of the receipt of the NOT by the TCEQ. Compliance with the conditions and requirements of this permit is required until an NOT is submitted. Permittees discharging to an MS4 must submit a copy of the NOT to the operator of the system at the same time the NOT is submitted to the TCEQ.

Section E. Authorization Under a TPDES Individual Permit

1. Discharges eligible for authorization under this general permit may alternatively be authorized under an individual permit according to 30 TAC Chapter 305, *Consolidated Permits*.
2. When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall submit an NOT to the Executive Director. The authorization under this general permit will be terminated when the Executive Director receives the NOT.
3. Discharges from facilities currently authorized under an individual permit, and discharges from facilities currently authorized under another general permit, may only be authorized under this TPDES general permit if the following conditions are met:
 - a. The discharges meet the applicability and eligibility requirements for authorization under this general permit;
 - b. The current individual permit does not contain numeric water quality-based effluent limitations for the discharge (unless the discharges that resulted in the limitations have ceased and any

- contamination that resulted in these 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 TMDL model, anti-backsliding policy, history of substantive noncompliance, or other site-specific considerations;
 - d. A previous application or permit for the discharge 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.
4. Discharges of hydrostatic test water from new outfalls at facilities authorized under an individual permit, or under a different general permit, may be authorized under this general permit if the following conditions are met:
- a. The proposed discharges meet the applicability and eligibility requirements for authorization under this general permit;
 - b. The current individual permit does not contain numeric water quality-based effluent limitations for discharges that are similar in nature to the proposed discharge (unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated);
 - c. The Executive Director has not determined that coverage under an individual permit is required based on consideration of a TMDL model, history of substantive non-compliance, or other site-specific considerations; and
 - d. A previous application or permit for the proposed discharge 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.

Section F. Permit Expiration

1. This general permit is effective for five years from the effective date. Authorizations for discharge under the provisions of this general permit may be issued until the expiration date of the general permit. This general permit may be amended, revoked, cancelled, or renewed by the Commission after notice and comment as provided by 30 TAC §§ 205.3 and 205.5.
2. If the Commission proposes to reissue this general permit before the expiration date, the general permit shall remain in effect after the expiration date for those existing discharges covered by the general permit in accordance with 30 TAC Chapter 205. The general permit shall remain in effect for these discharges until the date on which the Commission takes final action on the proposal to reissue this general permit. However, no new authorizations may be issued 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, shall submit an NOI according to the requirements of the new general permit, obtain a TPDES individual permit, or obtain a Texas Land Application Permit (TLAP) for those discharges.
4. If the Commission does not propose to reissue this general permit within 90 days before the expiration date, permittees must apply for authorization under an individual or, if applicable, an alternative general permit. 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 permit or alternative general permit.

Part III. Permit Requirements

Section A. Effluent Limitations

1. Discharges of hydrostatic test water from vessels described in Part II.A.1-3 are subject to the following effluent limitation if the water has been hyperchlorinated:

Parameter	Daily Maximum Limitations	Daily Average Limitations	Sample Type	Monitoring Frequency
Total Residual Chlorine	0.10 mg/L	Report	Grab	Two/Discharge ¹

¹Samples shall be taken during the first hour of discharge. Samples must be collected at a point immediately following discharge from the vessel and prior to commingling with stormwater, wastewater, or other flows. For discharges that extend beyond an hour in duration, a second sample shall be taken of the last 10% of the effluent.

2. Discharges of hydrostatic test water from existing vessels that previously contained petroleum product or waste related to petroleum products are subject to the following effluent limitations:

Parameter	Daily Maximum Limitations	Daily Average Limitations	Sample Type	Monitoring Frequency
Total Petroleum Hydrocarbons ¹	15 mg/L	Report	Grab	Two/discharge ²
Benzene	0.05 mg/L	Report	Grab	Two/discharge ²
Total BTEX ³	0.50 mg/L	Report	Grab	Two/discharge ²
Total Lead ⁴	0.10 mg/L ⁵	Report	Grab	Two/discharge ²
Total Lead ⁴	0.02 mg/L ⁵	Report	Grab	Two/discharge ²
pH	Between a minimum of 6.0 and a maximum of 9.0 Standard Units		Grab	Two/discharge ²

¹Total petroleum hydrocarbons must be analyzed using TCEQ Method 1005.

²Samples shall be taken during the first hour of discharge. Samples must be collected at a point immediately following discharge from the vessel and prior to commingling with stormwater, wastewater, or any other flows. For discharges that extend beyond an hour in duration, a second sample shall be taken of the last 10% of the effluent.

³Total BTEX shall be measured as the sum of benzene, toluene, ethylbenzene, and total xylenes.

⁴If the vessel containing the wastewater to be discharged has never contained lead or lead additives, there is no requirement to sample and analyze for total lead.

⁵The daily maximum limitation for total lead is 0.02 mg/L for discharges located in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van

Zandt, or Wood. For all other counties in the state, the daily maximum limitation is 0.10 mg/L.

3. If an authorized vessel fails the hydrostatic test due to leaks and an additional hydrostatic test is required, no additional analyses are required if:
 - a. The retest is within 30 days of the initial test;
 - b. No exceedances of permit limitations occurred during the initial discharge; and
 - c. No additional pollutants were added to the vessel.

Section B. General Requirements

1. The discharge shall be to a splash pad, a paved area, or other alternative surface to prevent erosion. The rate of discharge shall be controlled through best management practices to prevent flooding and erosion.
2. Mixing zones shall not encompass an intake for a domestic drinking water supply, and the discharge may not be located within 300 feet of the intake for a domestic drinking water supply.
3. The discharge must be a minimum distance of 500 feet from any water well and shall be conducted to minimize the potential of contamination to all public and private wells.
4. There shall not be any free product present in the vessel during a hydrostatic test.
5. There shall be no discharge of floating solids or visible foam other than in trace amounts, and no discharge of visible oil.
6. The discharge shall not contain a concentration of taste or odor producing substances that interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the receiving waters, or otherwise interfere with reasonable uses of water in the state.
7. Facilities which generate industrial solid wastes, as defined in 30 TAC § 335.1, shall comply with the provisions of 30 TAC Chapter 335, *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.

8. The permittee shall take necessary steps to prevent adverse effects to human health, safety, or the environment. The permittee shall immediately cease discharging whenever it is determined that the discharge may endanger human health, safety, or the environment.
9. Disposal of waste and wastewater shall be done in such a manner as to prevent nuisance conditions.
10. The permittee shall provide the following noncompliance notifications:
 - a. Any noncompliance that 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, by facsimile (FAX), or by email to the appropriate 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 appropriate TCEQ regional office and the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written report 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. If the analytical results indicate a violation of one or more of the permitted effluent limitations, the permittee shall submit a Discharge Monitoring Report (DMR) (EPA No. 3320-1) to the TCEQ Enforcement Division (MC-224) by the 20th day of the month following the discharge. Any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the appropriate TCEQ regional office and the TCEQ Enforcement Division (MC-224) within 5 working days of becoming aware of the noncompliance. For effluent limitation violations, noncompliances shall be reported on a DMR form or online using the NetDMR reporting system available through the TCEQ website.
 - c. Any noncompliance other than those specified in paragraphs (a) and (b) above, or any required information not submitted or submitted incorrectly, shall be reported to the TCEQ Enforcement Division (MC-224) as promptly as possible.
11. The permittee shall notify the appropriate TCEQ regional office in writing at least 48 hours prior to initiating the discharge.

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 authorization under this general permit, or for requiring a permittee to apply for and obtain either a TPDES individual permit or a TLAP.
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 discharge to maintain compliance with conditions of the general permit.
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 conditions of the general permit. 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 conditions of the general permit.
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 general 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. The permittee shall give notice to the Executive Director before physical alterations or additions to the permitted facility if such alterations would result in a violation of the general permit requirements.
6. Inspection and entry shall be allowed under Chapters 26 of the TWC; Texas Health and Safety Code, §§ 361.032 - 361.033 and 361.037; and Title 40 of the Code of Federal Regulations (CFR) § 122.41(i). 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.
7. Standard monitoring and reporting requirements are as follows:
 - 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;

- b. All samples must be collected according to the latest edition of "Standard Methods for the Examination of Water and Wastewater" (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the EPA's, "Methods for Chemical Analysis of Water and Wastes" (1979), or the EPA's, "Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973);
- c. Sample containers, holding times, preservation methods, and analytical methods, shall either follow the requirements in 40 CFR Part 136, or the latest edition of "Standard Methods for the Examination of Water and Wastewater";
- d. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge;
- e. The sampling point must be downstream of any treatment unit or treatment technique that is used to improve or otherwise alter the quality of the discharge;
- f. Analytical results for determining compliance with effluent limitations shall be recorded on a Discharge Monitoring Report (EPA No. 3320-1). Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in this general permit. Analytical results shall be submitted only as required by Part III.B.10 of the general permit to the TCEQ Enforcement Division (MC 224) or online using the NetDMR reporting system available through the TCEQ website. The permittee shall maintain the DMR record as required by Part IV.9 of this permit.
- g. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.
- h. Records of monitoring activities shall include:
 - (1) date, time, and place of sample or measurement;
 - (2) identity of individual who collected the sample or made the measurement;
 - (3) date and time of laboratory analysis;
 - (4) identity of the individual and laboratory that performed the analysis;
 - (5) the technique or method of analysis;
 - (6) the results of the analysis or measurement; and

- (7) quality assurance/quality control records.
 - i. If the permittee monitors any pollutant in a discharge more frequently than required by the permit using approved analytical methods as specified in Part IV.7 of this permit, all results of such monitoring shall be included in the calculation and recording of the values on the DMR. Increased frequency of sampling shall be indicated on the DMR.
- 8. All reports, NOIs, NOTs, NOCs, or other information requested by the Executive Director shall meet the requirements of 30 TAC § 305.44, *Signatories to Applications*.
- 9. The permittee shall retain copies of all records required by this permit, including monitoring records and records related to the application or any certification requirements, for a period of three years from the date of the record. This period may be extended at the request of the Executive Director. The records shall be retained at the facility or be readily available for review by TCEQ personnel upon request.
- 10. Authorization under this general permit may be suspended or revoked for the reasons stated in 30 TAC § 205.4. Notifying the TCEQ of planned changes or an anticipated noncompliance does not stay any general permit condition.
- 11. This general permit does not convey any property rights of any sort, or any exclusive privilege.
- 12. If the permittee becomes aware that it failed to submit any relevant facts in an NOI, or submitted incorrect information in an NOI or in any report to the Executive Director, it shall promptly submit such facts or information.
- 13. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC Chapter 7 for violations including, but not limited to, the following:
 - a. Violating CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a general permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402(a)(3) or 402(b)(8);
 - b. Intentionally or knowingly tampering with, modifying, disabling, or failing to use pollution control or monitoring devices, systems, methods, or practices required under this permit; and

- c. Intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from, an application, notice, record, report, plan, or other document, including monitoring device data, filed or required to be maintained by this permit.

Part V. Fees

1. An NOI must include a \$100 application fee. A fee is not required for submission of an NOT or NOC.
2. Annual Water Quality Fee - Facilities with an active authorization on September 1 of each year (i.e., 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

For proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXG670000 to discharge hydrostatic test water into or adjacent to water in the state.

Issuing Office: Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Prepared by: Laurie Fleet
Wastewater Permitting Section
Water Quality Division

Date: June 19, 2014

Permit Action: Renewal with Amendment

I. Summary

The Texas Commission on Environmental Quality (TCEQ or Commission) is proposing to renew and amend a general permit authorizing discharges resulting from the hydrostatic testing of vessels (pipelines, tanks, and other containers). The general permit authorizes discharges of hydrostatic test waters from: new vessels; existing vessels that only contained or transferred raw or potable water and did not contain corrosion inhibitors, antifreeze compounds, biocides, or other chemical additives (except chlorine or tracer dyes); existing vessels that previously contained only elemental gases (e.g. hydrogen, oxygen, nitrogen); and existing vessels that previously contained petroleum product or waste related to petroleum products.

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 will expire five years from the effective date in accordance with the requirements of 30 Texas Administrative Code (TAC) § 205.5(a).

III. Permit Applicability

1. This general permit authorizes the discharge of hydrostatic test water. The permit specifies which facilities may be authorized under this general permit and those that must be authorized by individual permit or another general permit.
2. The following discharges are not eligible for general permit coverage:
 - a. Discharges prohibited by 30 TAC Chapter 311, *Watershed Protection* or 30 TAC Chapter 213, *Edwards Aquifer*.
 - b. Discharges into or adjacent to water in the state from facilities that are regulated by the Railroad Commission of Texas, including crude oil facilities.
 - c. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30 TAC Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standard(s) and are listed on the Clean Water Act

(CWA) § 303(d) list. Constituents of concern are those for which the water body is listed as impaired.

- d. Discharges of the constituent(s) of concern to impaired water bodies for which there is a total maximum daily load (TMDL) implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The Executive Director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual permit or other applicable general permit prior to discharging.
 - e. Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure the protection of endangered or threatened species is achieved.
3. Facilities that dispose of wastewater by any of the following practices are not required to obtain coverage under this general permit nor an individual wastewater permit:
- a. Recycling of the wastewater with no resulting discharge into or adjacent to water in the state;
 - b. Pumping and hauling of the wastewater to an authorized disposal facility;
 - c. Discharge to a publicly owned treatment work (POTW);
 - d. Underground injection in accordance with 30 TAC Chapter 331; or
 - e. Discharge to above ground storage tanks with no resulting discharge into or adjacent to water in the state.

IV. Permit Effluent Limitations

1. The following effluent limitations apply to hyperchlorinated discharges from new vessels, existing vessels that contain or previously contained or transferred raw or potable water, or existing vessels that previously contained only elemental gases:

Parameter	Daily Maximum Limitations	Daily Average Limitations	Sample Type	Monitoring Frequency
Total Residual Chlorine	0.10 mg/L	Report mg/L	Grab	Two/discharge ¹

¹ Samples shall be taken during the first hour of discharge. Samples must be collected at a point immediately following discharge from the vessel and prior to commingling with stormwater, wastewater, or other flows. For discharges that extend beyond an hour in duration, a second sample shall be taken of the last 10% of the effluent.

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- Discharges of hydrostatic test water from existing vessels that previously contained petroleum product or waste related to petroleum products are subject to the following effluent limitations:

Parameter	Daily Maximum Limitations	Daily Average Limitations	Sample Type	Monitoring Frequency
Total Petroleum Hydrocarbons ¹	15 mg/L	Report	Grab	Two/discharge ²
Benzene	0.05 mg/L	Report	Grab	Two/discharge ²
Total BTEX ³	0.50 mg/L	Report	Grab	Two/discharge ²
Total Lead ⁴	0.10 mg/L ⁵	Report	Grab	Two/discharge ²
Total Lead ⁴	0.02 mg/L ⁵	Report	Grab	Two/discharge ²
pH	Between 6.0 - 9.0 Standard Units		Grab	Two/discharge ²

¹Total petroleum hydrocarbons must be analyzed using TCEQ Method 1005.

²Samples shall be taken during the first hour of discharge. Samples must be collected at a point immediately following discharge from the vessel and prior to commingling with stormwater, wastewater, or other flows. For discharges that extend beyond an hour in duration, a second sample shall be taken of the last 10% of the effluent.

³Total BTEX shall be measured as the sum of benzene, toluene, ethylbenzene, and total xylenes.

⁴If the vessel containing the wastewater to be discharged has never contained lead or lead additives, there is no requirement to sample and analyze for total lead.

⁵The daily maximum limitation for total lead is 0.02 mg/l for discharges located in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, or Wood. For all other counties in the state, the daily maximum limitation is 0.10 mg/l.

V. Changes From Existing General Permit

- Clarifications were made throughout the draft permit to revise “product” to “petroleum product.”
- Portions of the draft permit were re-organized to improve readability. Specifically, consolidation of requirements related to discharges subject to the Edwards Aquifer rule in Part II. Section C.3., and consolidation of all non-compliance reporting requirements in Part III. Section B.10.b.
- Part II. Section B.4 was added to clarify that this general permit does not authorize the use of domestic wastewater, reclaimed water, or wastewater generated by other industrial operations for hydrostatic testing and discharge under this general permit.
- Part II. Section B.5 was revised to add additional limitations on coverage related to compliance history rating of “unsatisfactory performer” and pursuant to the October 23, 2013 Commissioner’s Order on the Livestock Manure Composting General Permit, WQG200000, the draft permit was similarly revised to clarify that an applicant who

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owns or operates a facility classified as an “unsatisfactory performer” is entitled to a hearing before the Commission prior to denial or suspension of an authorization.

5. Part II. Section C.1 was revised to clarify that existing facilities authorized under the previous general permit that fail to submit a new notice of intent (NOI) by the 90-day deadline will result in expiration of their administratively continued authorization under the previous general permit.
6. Part II. Section C.3 was revised to provide the current contact information for TCEQ Region 11.
7. Part III. Section B.1 was revised to allow alternative best management practices to prevent erosion. This revision is consistent with revisions made to the Petroleum Contaminated Waters General Permit No. TXG830000.
8. Part VI. was revised to remove instructions for completing the discharge monitoring report (DMR) and the DMR forms. Permittees have access to the form and instructions for completing the form and the online NetDMR reporting system available through the TCEQ website.

VI. Addresses

Comments on this draft general permit should be sent to:

Office of the Chief Clerk (MC-105)
TCEQ
P.O. Box 13087
Austin, TX 78711-3087
(512) 239-3300

Questions concerning this draft general permit should be directed to:

Laurie Fleet
TCEQ, Water Quality Division
Wastewater Permitting Section (MC-148)
P.O. Box 13087
Austin, TX 78711-3087
(512) 239-5445

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. Monitoring
- XIII. Procedures for Final Decision
- XIV. Administrative Record

VII. Legal Basis

Texas Water Code (TWC), § 26.121 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. TWC, § 26.040 provides the Commission with the authority to amend or adopt, as necessary to implement this section, rules adopted under TWC, § 26.040, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the TPDES. The TCEQ and the EPA signed a Memorandum of Agreement which authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program to the TCEQ as it applies to the State of Texas.

CWA, §§ 301, 304, and 401 (33 United States Code (USC), §§ 1331, 1314, and 1341) include provisions which state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability; (2) comply with EPA-approved state water quality standards; and (3) comply with other state requirements adopted under authority retained by states under CWA, § 510, 33 USC § 1370.

Two types of technology-based effluent limitations must be included in the general permit. With regard to conventional pollutants, i.e., pH, biochemical oxygen demand (BOD), oil and grease, total suspended solids (TSS), and fecal coliform bacteria, CWA, § 301(b)(1)(E) requires effluent limitations based on “best conventional pollutant control technology” (BCT). With regard to nonconventional and toxic pollutants, CWA, § 301(b)(2)(A), (C), and (D) requires effluent limitations based on “best available technology economically achievable” (BAT), a standard that generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges before March 31, 1989 under CWA, § 301(b)(1)(A).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Until such guidelines are published, however, CWA, § 402(a)(1) requires that appropriate BCT and BAT effluent limitations be included in permitting actions based on best professional judgment (BPJ).

VIII. Regulatory Background

The regulation of hydrostatic test water dischargers was initially authorized by rule, 30 TAC Chapter 321, Subchapter G (relating to Hydrostatic Test Discharges) with an effective date of May 9, 1989. The permit by rule was replaced by TPDES General Permit TXG670000 in April 2005 and 30 TAC Chapter 321, Subchapter G was repealed in September 2007. The Commission was given authority to issue general permits in place of authorizations by rule through legislation, House Bill (HB) 1542, passed during the 75th legislative session (1997). Further clarification of this general permit authority was provided in subsequent legislation, HB 1283, passed during the 76th legislative session (1999).

IX. Permit Coverage

The purpose of this general permit is to regulate the discharge of water resulting from the hydrostatic testing of new or used pipelines, tanks, and other vessels used in pipeline transportation, storage, or other containment of raw materials or petroleum products. Fill water

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used in hydrostatic testing may come from rivers, streams, lakes, ponds, wells, or municipal water supplies.

Hydrostatic testing is performed by sealing the vessel or, in the case of pipelines, the segment to be tested, and filling it with water. The pressure is increased to the desired level using a high pressure pump system. The pressure is usually held for a designated length of time in order to check the integrity of the vessel. Following the test, the pressure is released and the vessel is dewatered. After dewatering, the disinfection of the vessel may be required and hyperchlorinated water is flushed through the supply line or tank. The general permit also authorizes discharges resulting from this flushing of water supply lines or tanks for disinfection purposes.

To obtain authorization to discharge under the draft general permit, an applicant will need to use the following guidelines.

1. Unless specifically exempted from notification requirements under Part II.C.4. of the permit, applicants seeking authorization to discharge under authority of this general permit must submit a completed NOI on a form approved by the Executive Director. The NOI shall include the legal name and address of the owner and operator, the facility name and address, specific description of its location, type of facility or discharges, and the name of the receiving water.
2. 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 discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. The NOI must be submitted to the address indicated on the NOI form. Following review of the NOI, the Executive Director shall either acknowledge coverage by providing an authorization number to the applicant or notify the applicant that coverage under this general permit is denied. If TCEQ provides for electronic submittal of NOIs during the term of this general permit, provisional authorization begins immediately following confirmation of receipt of the electronic NOI by the TCEQ. Applicants seeking authorization to discharge to a municipal separate storm sewer system (MS4) must provide a copy of the NOI to the operator of the system at the same time an NOI is submitted to the TCEQ.
3. For discharges located in areas regulated by 30 TAC Chapter 213, *Edwards Aquifer*, this authorization to discharge is separate from the requirements of the applicant's responsibilities under that rule. Discharge may not commence for sites regulated under 30 TAC Chapter 213 until all applicable requirements of that chapter are met. For discharges located on or 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 78233-4480
210-490-3096

Counties: Williamson, Travis, and Hays
Contact: TCEQ
Water Program Manager
Austin Regional Office
P.O. Box 13087
Austin, TX 78711-3087
512-339-2929

4. Authorization under this general permit is not transferable. If either the owner or operator of the regulated entity changes, then both the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. The NOT and NOI must be submitted no later than 10 days before the change. Permittees discharging to a MS4 must submit a copy of the NOT to the operator of the system at the same time the NOT is submitted to the TCEQ.
5. If the owner or operator becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in an NOI, the correct information must be provided to the Executive Director in a Notice of Change (NOC) within 14 days after discovery. If relevant information provided in the NOI changes (for example, phone number or P.O. Box number) an NOC must be submitted within 14 days of the change. Permittees discharging to a MS4 must submit a copy of any NOC to the operator of the system at the same time the NOC is submitted to the TCEQ.

X. Technology-Based Requirements

The limitations and conditions of the draft general permit have been developed to comply with the technology-based standards of the CWA. There are currently no nationally applicable guidelines identifying the BPT, BCT, or BAT standards for discharges authorized by this general permit, therefore, the technology-based effluent limitations are based on BPJ. The parameters selected for BCT/BAT limits are the primary pollutants of concern for discharges authorized in the draft general permit and are provided for discharges under two categories: 1) discharges from new vessels or used vessels that contain raw or potable water or elemental gases and 2) vessels that previously contained petroleum product or waste related to petroleum products.

The first category of discharges have a very low potential to contain pollutants, however, some hydrostatic tests could include the hyperchlorination of the vessel for disinfection purposes. In these instances, the permit contains a requirement that the discharge must be dechlorinated to less than 0.1 mg/l total residual chlorine prior to discharge. The water used for the hydrostatic test in this category must not contain corrosion inhibitors, antifreeze compounds, or other chemical additives (except those present in potable water, if potable water is the test source).

The second category of discharges, vessels that previously contained petroleum product or waste related to petroleum products, are required to analyze the following parameters which were selected for BCT/BAT limitations:

<u>Parameter</u>	<u>Daily Maximum mg/L</u>	<u>Daily Average mg/L</u>
Total Petroleum Hydrocarbons	15	Report
Benzene	0.05	Report
*Total BTEX	0.5	Report
pH	Between 6.0 and 9.0 Standard Units	

*Sum of benzene, toluene, ethyl benzene, and total xylene.

These effluent limitations are economically achievable and were established in the existing permit. No requirements for dechlorination are included in the general permit for this category of discharges, as the use of chlorine disinfection in such vessels is not a standard practice.

XI. Water Quality-Based Requirements

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the TPDES permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity data bases to determine the adequacy of technology-based permit limits and the need for additional water-quality based controls.

In accordance with 30 TAC §307.5 and the TCEQ Implementation Procedures of the Texas Surface Water Quality Standards (TSWQS), an antidegradation review of this TPDES general permit was performed in order to ensure that no significant degradation of any water in the state will occur and that existing uses will be maintained and protected.

The 2010 TSWQS specify instream criteria for benzene of 0.005 mg/L for public drinking water sources, 0.513 mg/L to protect freshwater fisheries, and 0.0708 mg/L to protect saltwater fisheries. The existing benzene permit limit of 0.05 mg/L is expected to meet water quality standards, including standards for drinking water sources, when typical dilutions are assumed near the point of discharge. The existing BTEX permit limit of 0.5 mg/L remains protective of all BTEX constituents except for benzene, which is addressed with a separate permit limit. The criteria for each constituent which comprises total BTEX, expressed as mg/L, are as follows:

All values are in mg/L

Chemical	Water and Fish Consumption	Freshwater Aquatic Life Chronic	Freshwater Fisheries Sustainable	Saltwater Aquatic Life Chronic	Saltwater Fisheries Sustainable
Benzene	0.005 ††	0.530 #	0.513 †	0.510 #	0.0708 †
Ethylbenzene	0.700 ††	1.090 §	7.143 †	0.249 §	29 ¶
Toluene	1.000 ††	1.450 §	28.952 ¶	0.475 §	19.301 ¶
Xylene	10.000 ††	1.340 §	No Human Health data	0.850 §	No Human Health data

† 30 TAC §307.6(d)(1), Table 2.

§ Derived by TCEQ staff from available data, in accordance with procedures in the TSWQS, 30 TAC §§307.6(c)(7) and 307.6(d)(8).

Calculated using an acute-to-chronic ratio of 10.

¶ Derived from EPA, National Recommended Water Quality Criteria: 2002, EPA-822-R-02-047, November 2002; in accordance with procedures in the TSWQS, 30 TAC §307.6(d)(8).

†† MCL.

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The 2010 TSWQS were used to calculate aquatic life criteria for dissolved lead which were converted to total lead using procedures described in the Procedures to Implement the TSWQS and dissolved lead concentrations for segment 0513 found in TexTox Version 9/6/2013:

Freshwater aquatic-life protection (using the 15th percentile value of 44 mg/L hardness and 2 mg/L TSS for all water in the state):

Acute: 0.0996 mg/L
Chronic: 0.0039 mg/L

Saltwater aquatic-life protection (using a TSS of 10 mg/L):

Acute: 0.349 mg/L
Chronic: 0.014 mg/L

Based on these calculations, the 0.1 mg/L total lead limit is continued from the existing permit. The effluent limit for lead of 0.1 mg/L provides protection for acute toxicity in situations where little or no dilution occurs, and provides reasonable protection for chronic criteria from intermittent, low-volume discharges. However, a lead limit of 0.1 mg/L may not be stringent enough to protect aquatic life in every water basin of the state. The Cypress, Sabine, and Neches water basins contain segments that are below the statewide 15th percentile values for hardness. The 0.02 mg/L total lead limit for those basins is also continued from the existing permit based on the following calculations:

Freshwater aquatic-life protection (using the 15th percentile value of 12 mg/L hardness for the softest segment, 0513):

Acute: 0.029 mg/L
Chronic: 0.001 mg/L

Human-health criteria are also protected by a lead limit of 0.1 mg/L for discharges that are not large or continuous, since substantial rapid dilution (>12:1) is expected for any discharges into waterbodies that are large enough to constitute a public drinking water supply or a sustainable fishery.

Human-health criteria (using a TSS of 2 mg/L for freshwater and 10 mg/L for saltwater):

Drinking water source: 0.004 mg/L
Freshwater fishery: 0.147 mg/L
Saltwater fishery: 0.010 mg/L

The following water quality based permit limitations are included in the draft permit:

<u>Parameter</u>	<u>Daily Maximum mg/L</u>	<u>Daily Average mg/L</u>
Total Lead*	0.10	Report
Total Lead*	0.02	Report

*The daily maximum limitation for total lead is 0.02 mg/L for discharges located in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, or Wood. For all other counties in the state, the daily maximum limitation is 0.10 mg/L.

The TSWQS also require that discharges shall not be acutely toxic to aquatic life, as determined by requiring greater than 50% survival in 100% effluent using a 24-hour acute toxicity test. This requirement, however, is typically only required for continuously flowing discharges or discharges with the potential to exert toxicity in the receiving stream, according to the state's implementation procedures.

The discharges authorized under TPDES General Permit TXG670000 are not typically continuous flowing discharges and the limitations for pollutants of concern in the permit should preclude toxicity instream. The concentrations (LC 50) of these pollutants that exhibit 50% mortality are less protective than the concentrations in the permit. The EPA's document, Quality Criteria for Water 1986 (EPA 440/5-86-001), also called the "Goldbook", lists the aquatic life criterion for Benzene as 5.3 mg/L which is less protective than the 0.05 mg/L limit in the draft permit. Toxicity data compiled by the Water Quality Assessment Team shows LC 50s for sensitive freshwater species as 28.5 mg/L for Toluene, 21.8 mg/L for Ethylbenzene, and 13.4 mg/L for Xylenes. The LC 50s for marine species are 9.5 mg/L for Toluene, 5.0 mg/L for Ethylbenzene, and 8.5 mg/L for Xylenes. Therefore, the limits in the draft permit of 0.05 mg/L for Benzene, and 0.50 mg/L for BTEX should preclude toxicity instream, so the 24-hour acute toxicity tests are not required by the permit.

XII. Monitoring and Reporting

Monitoring is required by 40 Code of Federal Regulations (CFR) § 122.44(i) for each pollutant limited in a permit to ensure compliance with the permit limits. The draft general permit has the following criteria established for monitoring.

1. Samples shall be collected, and measurements shall be taken at times and in a manner so as to be representative of the monitored discharge.
2. All samples shall be collected according to the latest edition of "Standard Methods for the Examination of Water and Wastewater" (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the EPA's, "Methods for Chemical Analysis of Water and Wastes" (1979), or the EPA's, "Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973).
3. Sample containers, holding times, and preservation methods shall either follow the requirements specified in 40 CFR Part 136 or the latest edition of "Standard Methods for the Examination of Water and Wastewater."
4. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.
5. The sampling point must be downstream of any treatment unit or treatment technique that is used to improve or otherwise alter the quality of the discharge.
6. Analytical results for determining compliance with effluent limitations shall be recorded on a DMR (EPA No. 3320-1). The DMR must be signed in accordance with the requirements in Part IV.8 of the general permit and be maintained as required.
7. Records of monitoring activities shall include:
 - a. date, time, and place of sample or measurement;

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- b. identity of individual who collected the sample or made the measurement;
 - c. date and time of laboratory analysis;
 - d. identity of the individual and laboratory who performed the analysis;
 - e. the technique or method of analysis;
 - f. the results of the analysis or measurement; and
 - g. quality assurance / quality control records.
8. If the permittee monitors any pollutant in a discharge more frequently than required by the permit using approved analytical methods as specified in Part IV.7 of the general permit, all results of such monitoring shall be included in the calculation and recording of the values on the DMR. Increased frequency of sampling shall be indicated on the DMR.
9. If the analytical results indicate a violation of one or more of the permitted effluent limitations, the permittee shall submit a DMR to the TCEQ's Enforcement Division (MC-224) by the 20th day of the month following the discharge. Any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. For effluent limitation violations, noncompliances shall be reported on a DMR form or online using the NetDMR reporting system available through the TCEQ website.

XIII. Procedures for Final Decision

The memorandum of agreement between the EPA and TCEQ provides that the EPA has no more than 90 days to comment, object, or make recommendations to the draft general permit before it is published in the *Texas Register*. According to 30 TAC Chapter 205, *General Permits for Waste Discharges*, when the draft general permit is proposed, notice shall be published, at a minimum, in at least one newspaper of statewide or regional circulation. The Commission may also publish notice in additional newspapers of statewide or regional circulation. Mailed notice shall also be provided to the following:

- the county judge of the county or counties in which the discharges under the general permit could be located;
- if applicable, state and federal agencies for which notice is required in 40 CFR § 124.10(c);
- persons on a relevant mailing list kept under 30 TAC § 39.407, relating to Mailing Lists; and
- any other person the Executive Director or Chief Clerk may elect to include.

After notice of the general permit is published in the *Texas Register* and the newspaper(s), the public will have 30 days to provide public comment on the draft permit.

Any person, agency, or association may make a request for a public meeting on the draft general permit to the Executive Director of the TCEQ 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

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public meeting is intended for the taking of public comment, and is not a contested case proceeding under the Texas 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 significant public comments on the draft general permit raised during the public comment period. The Executive Director shall make the response available to the public. 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.

1. TPDES Permits

TPDES General Permit for Discharges of Hydrostatic Test Waters (TXG670000) issued April 1, 2010

2. 40 Code of Federal Regulations (CFR) Citations

40 CFR Parts 122, 124, 136

3. TCEQ Rules

30 TAC Chapters 39, 205, 281, 305, 307, 319, 331, and 335

4. Letters/Memoranda/Records of Communication

TXG670000 Antidegradation Review, Interoffice Memorandum from the Standards Implementation Team (B. Lee) dated May 1, 2014

5. Miscellaneous

EPA, National Recommended Water Quality Criteria: 2002, EPA-822-R-02-047, November 2002

EPA, Quality Criteria for Water 1986 (EPA 440/5-86-001)

TCEQ Implementation Procedures of the Texas Surface Water Quality Standards, January 2010

COMMISSIONERS' RESPONSE TO PUBLIC COMMENT ON GENERAL PERMIT NO. TXG670000

The executive director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment on Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG670000 authorizing the discharge of hydrostatic test water from new vessels; vessels that contained raw water, potable water, or elemental gases; or vessels that contained petroleum product or waste related to petroleum products. As required by Texas Water Code (TWC), §26.040(d) and 30 Texas Administrative Code (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. A timely public comment letter was received from the Harris County Pollution Control Services Department (Harris County).

Background

TPDES General Permit No. TXG670000 authorizes the discharge of hydrostatic test water from new vessels; vessels that contained raw water, potable water, or elemental gases; or vessels that contained petroleum product or waste related to petroleum products.

Applicants must submit a Notice of Intent (NOI) to the TCEQ for discharges from vessels that contained a petroleum product. Provisional coverage will begin 48-hours after the postmark date. No NOI is required for discharges from new vessels, vessels that contained raw water, potable water, or elemental gases.

Discharge of test water from vessels that contained a petroleum product are subject to numeric limitations for total petroleum hydrocarbons, total lead, benzene, total BTEX, and pH. Vessels that contained hyperchlorinated water are subject to a chlorine residual limit. Limitations are continued from the existing permit.

This general permit will replace the previous permit that expires on April 5, 2015.

Procedural Background

TCEQ published notice of the draft permit to solicit public comment in *The Dallas Morning News*, *Houston Chronicle*, *Corpus Christi Caller-Times*, and the *Texas Register* on October 24, 2014. The public comment period ended on November 24, 2014. This permit is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Comment and Response

Comment:

Harris County noted that it receives illicit discharge notifications from concerned citizens each year where a percentage of those discharges are confirmed as authorized discharges under this general permit. The commenter requested that the "local pollution control agency with jurisdiction" should also be provided notice prior to initiating discharges to be better prepared and informed in these types of situations. The proposed permit requires notification to the TCEQ regional office.

Response:

The TCEQ recognizes that Harris County is an authorized Municipal Separate Storm Sewer System (MS4). As an MS4, Harris County is required to identify and investigate potentially illicit discharges within their jurisdiction. The TCEQ agrees that when authorized hydrostatic testing discharges occur within the boundaries of an MS4, the MS4 operator should be notified.

In response to this comment, the following requirement was added as Part III, Section B.12 of the proposed general permit:

When the discharge originates within the boundaries of an MS4, the permittee shall notify the appropriate MS4 operator in writing at least 48 hours prior to initiating the discharge.