

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Amendment to a General Permit

AGENDA REQUESTED: September 9, 2015

DATE OF REQUEST: August 21, 2015

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Kris Hogan, (512) 239-6812

CAPTION: Docket No. 2015-0170-MIS. Consideration for adoption of amendment to the Evaporation Pond General Permit Number WQG100000, which authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. Public notice of the proposed draft permit was published in the April 17, 2015, issue of the *Texas Register* (40 TexReg 2211). (Laurie Fleet, Robert Brush) (Non-Rule Project No. 2015-007-OTH-NR)

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Interoffice Memorandum

To: Commissioners **Date:** August 21, 2015

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

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

Docket No.: 2015-0170-MIS

Subject: General Permit: Commission Approval for Adoption
Amendment to the Evaporation Pond General Permit No. WQG100000
Project No. 2015-007-OTH-NR

Summary and Background:

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to amend Evaporation Pond General Permit No. WQG100000, which authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. This general permit would not authorize the discharge of wastewater into water in the state.

This general permit was initially issued at the March 26, 2014 commissioner's agenda. A representative from the waste industry, attending the agenda, notified the commission that the general permit requirements are inconsistent with waste requirements for surface impoundments, which prevent an existing waste facility from obtaining authorization under this general permit. The executive director was instructed to work with stakeholders to identify changes needed to resolve this issue. Amendments to the general permit were developed in coordination with the TCEQ Waste Permits Division, TCEQ Remediation Division, and stakeholder input.

Basic Requirements:

A. Applicability:

This general permit authorizes the disposal of wastewater by evaporation from surface impoundments adjacent to water in the state, that is generated from industrial or water treatment facilities, except wastewater that:

1. has an oil and grease concentration greater than 100 milligrams per liter;
2. has a pH that is:
 - a. less than 5.0 standard units;
 - b. more than 10.0 standard units;
 - c. outside the liner manufacturer's recommended pH range for synthetic liners;
or
 - d. corrosive to the evaporation pond liner;

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3. creates a fire or explosion hazard;
4. contains any radioactive substances, hazardous wastes, or medical wastes;
5. contains constituents that will inhibit evaporation, or are incompatible with or would damage the evaporation pond liner;
6. is regulated under another wastewater general permit; or
7. consists solely of domestic wastewater, subject to the requirements of 30 Texas Administrative Code (TAC) Chapter 309, *Domestic Wastewater Effluent Limitation and Plant Siting*.

The following are not eligible for coverage under this general permit:

1. No discharge is allowed into surface water in the state. Discharge by disposal of wastewater by evaporation from surface impoundments adjacent to water in the state is allowed only under the conditions described in the draft general permit.
2. Industrial and water treatment facilities that are located in areas of the state where the average annual rainfall exceeds the average annual lake surface evaporation rate.
3. The draft general permit does not provide authorization for the storage, processing, or disposal of solid waste. 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, and 335, *Sludge Use; Disposal and Transportation; Municipal Solid Waste; and Industrial Solid Waste and Municipal Hazardous Waste*, respectively.
4. The draft general permit does not authorize the discharge or disposal of stormwater otherwise authorized by the Construction General Permit (TXR150000), the Multi-Sector General Permit (TXR050000), or an individual stormwater permit.
5. The draft general permit does not authorize the discharge or disposal of wastewater generated at a Concentrated Animal Feeding Operation, as defined in 30 TAC Chapter 321, Subchapter B, *Concentrated Animal Feeding Operations*.
6. 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 oil and gas facilities.

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7. Disposal of wastewater shall not be authorized by this general permit where prohibited by 30 TAC Chapter 213, *Edwards Aquifer*, 30 TAC Chapter 311, *Watershed Protection*, or any other state statute, rule, or regulation.
8. The executive director shall deny or suspend a facility's authorization for disposal under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC §60.3, *Use of Compliance History*, and Texas Water Code (TWC), §26.040. 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 coverage denied or suspended, in accordance with TWC, §26.040(h).

B. Permit Requirements:

1. The general permit establishes requirements for designing, constructing, and operating evaporation ponds. These requirements include:
 - evaporation ponds shall be designed by a licensed Texas professional engineer and maintained to prevent any discharge into surface water in the state;
 - evaporation pond sizing shall be based on whichever of the following two evaluations results in a larger capacity pond: average conditions or critical conditions;
 - evaporation ponds shall be designed with a volume allocation for solids accumulation based on the expected settleable solids content of the wastewater;
 - evaporation ponds shall be constructed with either a clay liner or a synthetic liner with a leak detection and collection system;
 - evaporation ponds shall not be located: in the 100-year flood plain unless protected from inundation and damage that may occur during that flood event, closer than 500 feet from a public water supply well, or closer than 150 feet from a private water well; and
 - nuisance abatement through required setbacks of evaporation ponds, landowner consent, or odor control plan.
2. The draft permit includes the following considerations for existing evaporation ponds.
 - The construction requirements do not apply to evaporation ponds for which: (1) a notification was provided to the TCEQ in accordance with 30 TAC §335.2(d) and §335.6 that was acknowledged, in writing, prior to the effective date of this general permit; or (2) a water quality Texas Land Application Permit was issued prior to the effective date of this general permit.
 - For evaporation ponds that were constructed prior to the effective date of the draft general permit that do not comply with the sizing requirements, the permittee shall implement measures or provide additional storage to store and dispose of the additional wastewater.

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3. Wastewater grab samples shall be collected and analyzed quarterly for pH, total suspended solids, and oil and grease.
4. The permittee shall make a visual inspection of each evaporation pond weekly to check the wastewater level, identify conditions that may inhibit evaporation, identify conditions that may damage the embankment, check for liner damage, and check for liner or embankment leaks. The permittee must take corrective actions, as needed.

C. Fees:

1. Application Fee - An application fee of \$100 must be submitted with each notice of intent (NOI). A fee is not required for submission of a Notice of Termination (NOT) or Notice of Change (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 \$1,250 for the following fiscal year.

Number of Current/Expected Authorizations:

There are currently seven facilities authorized under this general permit. The amendments to the general permit will allow additional existing facilities to qualify for authorization.

Changes from the Current Permit:

- A. Part II.F.3 is revised to allow a facility that obtained authorization under the March 28, 2014, General Permit No. WQG100000 prior to the effective date of this permit amendment to continue operating under the terms and conditions of this permit without having to submit an NOI. This provision is only applicable to this permit amendment action. It is not intended to be continued in future permit actions.
- B. Part III.B.2 is revised to exempt certain evaporation ponds from the construction requirements. Specifically exempted are evaporation ponds for which: (1) a notification was provided to the TCEQ in accordance with 30 TAC §335.2(d) and §335.6 that was acknowledged, in writing, prior to the effective date of this permit amendment; or (2) a water quality Texas Land Application Permit was issued prior to the effective date of this permit amendment.
- C. Part III.B.2(d) is revised to remove the requirement to have a 100-foot setback from surface water in the state. The setback is not necessary to protect surface water quality because the evaporation ponds are not authorized to discharge, nor does the draft permit authorize irrigation adjacent to surface water in the state. A discharge from the evaporation pond would be a violation of the permit, regardless of the distance to the surface water. The draft permit retains the requirement that evaporation ponds may not be located within the 100-year flood plain unless

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protected from inundation and damage that may occur during such an event.

- D.** Part III.B.3 was revised to make the closure requirements consistent with the requirements in 30 TAC Chapters 335 and 350.
- E.** Part III.C.4 was revised to clarify that the permittee must comply with the notification requirements for leaking evaporation ponds.
- F.** Appendix A, Average Condition Evaluation was revised to clarify that the Evaporation Rate is for the total period of record.
- G.** Appendix A, Critical Condition Evaluation was revised to clarify that the Evaporation Rate is for the most recent 25-year period.

Stakeholder Involvement:

The executive director held a stakeholder meeting on December 11, 2014. Additionally, stakeholders were notified of, and updated quarterly about, this project during the Water Quality Advisory Workgroup meetings.

United States Environmental Protection Agency Review:

This permit is proposed under state authority and is not a Texas Pollutant Discharge Elimination System permit, since the permit would not authorize any discharge into waters of the United States as defined under the federal Clean Water Act and National Pollutant Discharge Elimination System requirements. The United States Environmental Protection Agency review is not required for state-only permits.

Public Comment:

Public comments were received from El Paso Electric Company (EPEC) and Haynes and Boone, LLP, representing Panda Temple Power, LLC (Panda). Panda supported the proposed permit. EPEC requested that the exemption provided to existing facilities related to construction requirements be applied to the pond sizing requirement. The pond sizing requirements provide a number of alternative measures that can be implemented at existing facilities in lieu of meeting the sizing requirements. Therefore, it is not necessary to apply the exemption to the pond sizing requirements.

EPEC also requested clarification that the facility's perimeter fencing satisfies the requirement to restrict access to the evaporation pond and liner by unauthorized personnel, and domestic and wild animals. The executive director agrees that the evaporation pond itself does not need to be additionally and separately fenced if the facility's perimeter fencing is constructed and maintained in a manner that restricts access to the evaporation pond and liner by unauthorized personnel, and domestic and wild animals. The permit was revised to include this clarification.

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Potential Controversial Concerns and Legislative Interest:

At the March 2014 Commissioner's Agenda, when this permit was initially considered for issuance, a stakeholder from the waste industry questioned the need for waste entities to obtain a water quality permit for an evaporation pond that is already subject to the 30 TAC Chapter 335 notice requirements. Although this question was addressed at the Commissioner's Agenda as well as in the stakeholder meeting held in December 2014, waste stakeholders may still raise this issue.

Effect on the:

- A. Regulated community:** The amendments will allow additional existing facilities to qualify for authorization under this general permit. This will benefit the regulated community because the permitting process for obtaining authorization under a general permit versus an individual permit is significantly reduced. Facilities currently authorized under this general permit will not have to submit an NOI to continue their authorization for this permit cycle.
- B. Public:** The amendments are not expected to affect the public.
- C. Agency programs:** The amendments will allow additional existing facilities to qualify for authorization under this general permit and facilities currently authorized under this general permit will not have to submit an NOI to continue their authorization. These amendments will benefit the agency by reducing the executive director's permitting staff workload.

Key Dates in the General Permit Schedule:

Published notice in *Texas Register* and newspapers: April 17, 2015

End of Public Comment Period: May 18, 2015

Anticipated Adoption Date: September 9, 2015

Statutory authority:

- 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.

Attachments:

Response to Public Comment, Proposed Permit, and Fact Sheet

cc: Chief Clerk, 7 copies

COMMISSIONERS' RESPONSE TO PUBLIC COMMENT ON GENERAL PERMIT NO. WQG100000

The executive director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment on General Permit Number WQG100000, which authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. As required by Texas Water Code (TWC), §26.040(d) and Title 30 Texas Administrative Code (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. Timely public comment letters were received from El Paso Electric Company (EPEC) and Haynes and Boone, LLP, representing Panda Temple Power, LLC (Panda).

Background

General Permit No. WQG100000 authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. This general permit does not authorize the discharge of wastewater into water in the state.

This general permit was initially issued at the March 26, 2014 commissioner's agenda. A representative from the waste industry, attending the agenda, notified the commission that the general permit requirements were inconsistent with waste requirements for surface impoundments, which prevent an existing waste facility from obtaining authorization under this general permit. The executive director was instructed to work with stakeholders to identify changes necessary to resolve this issue. Amendments to the general permit were developed in coordination with the TCEQ Waste Permits Division, TCEQ Remediation Division, and stakeholder input.

This general permit will replace the previous permit that was issued on March 28, 2014. Permittees currently authorized under the general permit will not be required to submit a Notice of Intent (NOI) to continue authorization under the amended general permit during this permit term. Applicants that are not currently authorized under the general permit must submit an NOI to the TCEQ to obtain authorization under the general permit. Provisional coverage will begin 48-hours after the postmark date.

Procedural Background

TCEQ published notice of the draft permit to solicit public comment in *The Dallas Morning News*, *Houston Chronicle*, *El Paso Times*, and the *Texas Register* on April 17, 2015. The public comment period ended on May 18, 2015. This permit is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Comments and Responses

Comment 1:

EPEC notes that the proposed permit exempts certain evaporation ponds from the Evaporation Pond Construction Requirements in Part III.B.2. EPEC recommends revising the proposed permit to exempt those same evaporation ponds from the design analysis required in Part III.B.1.

Response 1:

The exemption in Part III.B.2 was added so that entities with existing evaporation ponds that complied with the requirements of the TCEQ solid waste notification program or the TCEQ wastewater permitting program would not have to re-construct their existing evaporation ponds to obtain authorization under this general permit. Part III.B.1.c contains requirements for evaporation ponds that were constructed prior to the effective date of the general permit that do not comply with the sizing requirements in Part III.B.1.b. The requirements in Part III.B.1.c provide a number of alternative measures that can be implemented at existing facilities in lieu of meeting the sizing requirements. These alternative measures can be implemented without re-constructing an existing evaporation pond. Therefore, it is not necessary to apply the exemption in Part III.B.2 to the design analysis requirement in Part III.B.1.

Additionally, it is not appropriate to exempt any facilities from Part III.B.1.a, as this provision requires evaporation ponds to be designed and maintained to prevent any discharge into water in the state. This general permit is limited to disposal of wastewater by evaporation. This general permit does not authorize the discharge of wastewater into water in the state.

No changes were made to the proposed permit in response to this comment.

Comment 2:

EPEC requests clarification that the facility's perimeter fencing satisfies the requirement in Part III.C.2.b to restrict access to the evaporation pond and liner by unauthorized personnel, and domestic and wild animals.

Response 2:

The TCEQ agrees that the evaporation pond itself does not need to be additionally and separately fenced if the facility's perimeter fencing is constructed and maintained in a manner that restricts access to the evaporation pond and liner by unauthorized personnel, and domestic and wild animals. Therefore, in response to the comment a sentence was added to Part III.C.2.b that states: A facility perimeter fence or specific pond fencing may be used to satisfy this requirement.

Comment 3:

Panda supports the proposed amendment to exempt facilities that were previously authorized under the agency's solid waste program from the construction requirements.

Response 3:

The TCEQ acknowledges this comment.

Texas Commission on Environmental Quality

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



GENERAL PERMIT TO DISPOSE OF WASTEWATER
under provisions of Chapter 26 of the Texas Water Code
and 30 Texas Administrative Code Chapter 205

This permit supersedes and replaces
General Permit No. WQG100000, issued on March 28, 2014.

Wastewater generated from industrial or water treatment facilities

located in the state of Texas

may be disposed of by evaporation from surface impoundments adjacent to water in the state

only according to wastewater 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 commission. The issuance of this general permit does not grant to the permittee the right to use private or public property for disposal of wastewater. 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 disposal of wastewater.

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

ISSUED DATE:

EFFECTIVE DATE:

For the Commission

General Permit No. WQG100000

**TCEQ GENERAL PERMIT NUMBER WQG100000
RELATING TO THE DISPOSAL OF WASTEWATER BY EVAPORATION**

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General Permit No. WQG100000

Part I. Definitions

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

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

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, by evaporation.

Evaporation Pond – A type of surface impoundment that stores and evaporates wastewater.

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, other than underflow of a stream or an underground stream.

Hazardous waste – As defined in 30 TAC Chapter 330, *Municipal Solid Waste*.

Hydrologic connection – The interflow and exchange between surface water and groundwater.

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.

Medical waste – As defined in 30 TAC Chapter 330, *Municipal Solid Waste*.

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 notifying its intent to discharge or dispose of waste under the provisions 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 under the general permit.

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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 – A person responsible for the management of a facility subject to the provisions of this general permit. Operators include entities with day-to-day operational control of activities at a facility necessary to ensure compliance with the general permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit).

Owner – The person who owns a facility or part of a facility, including the owner of the land on which a facility is located.

Permittee – Any person issued or covered by a permit.

Radioactive substance – As defined in 30 TAC Chapter 336, *Radioactive Substance Rules*.

Stormwater – Rainfall runoff, snow melt runoff, surface runoff, or drainage. This term excludes rainfall directly on or into an evaporation pond.

Surface impoundment – A natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids.

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 as defined in the Texas Water Code, §26.001, 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 water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems that are authorized by state or federal law, regulation, or permit, and that are created for the purpose of waste treatment are not considered to be water in the state.

Part II. Permit Applicability and Coverage

Section A. Disposal Covered

This general permit authorizes the disposal of wastewater by evaporation from surface impoundments adjacent to water in the state, that is generated from industrial or water treatment facilities, except wastewater that:

1. has an oil and grease concentration greater than 100 milligrams per liter;
2. has a pH that is:
 - a. less than 5.0 standard units;

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- b. more than 10.0 standard units;
 - c. outside the liner manufacturer's recommended pH range for synthetic liners; or
 - d. corrosive to the evaporation pond liner.
3. creates a fire or explosion hazard;
 4. contains any radioactive substances, hazardous wastes, or medical wastes;
 5. contains constituents that will inhibit evaporation, or are incompatible with or would damage the evaporation pond liner;
 6. is regulated under another wastewater general permit; or
 7. consists solely of domestic wastewater, subject to the requirements of 30 TAC Chapter 309, *Domestic Wastewater Effluent Limitation and Plant Siting*.

Section B. Limitations on Coverage

1. No discharge is allowed by this general permit into water in the state. Discharge by disposal of wastewater by evaporation from surface impoundments adjacent to water in the state is allowed only under the conditions described in this general permit.
2. Industrial and water treatment facilities that are located in areas of the state where the average annual rainfall exceeds the average annual lake surface evaporation rate are prohibited from obtaining coverage under this general permit. Average annual rainfall and average annual lake surface evaporation data for the area where the facility is located or proposed to be located must be obtained from the Texas Water Development Board.
3. This general permit does not provide authorization for the storage, processing, or disposal of solid waste. 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, and 335, *Sewage Sludge Use, Disposal and Transportation, Municipal Solid Waste, and Industrial Solid Waste and Municipal Hazardous Waste*, respectively.
4. This general permit does not authorize the discharge or disposal of stormwater otherwise authorized by the Construction General Permit (TXR150000), the Multi-Sector General Permit (TXR050000), or an individual stormwater permit. It is the responsibility of any person conducting such activities to obtain authorization under the Construction General Permit (TXR150000), the Multi-Sector General Permit (TXR050000), or an individual stormwater permit.
5. This general permit does not authorize the discharge or disposal of wastewater generated at a Concentrated Animal Feeding Operation, as defined in 30 TAC Chapter 321, Subchapter B, *Concentrated Animal Feeding Operations*.

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6. 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 oil and gas facilities.
7. Disposal of wastewater shall not be authorized by this general permit where prohibited by 30 TAC Chapter 213, *Edwards Aquifer*, 30 TAC Chapter 311, *Watershed Protection*, or any other state statute, rule, or regulation.
8. The executive director shall deny or suspend a facility's authorization for disposal under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC §60.3, *Use of Compliance History*. The executive director shall deny an application for authorization under this general permit for any of the reasons described in 30 TAC §§205.4(c)(2)(A) - (F). 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 coverage denied or suspended, in accordance with TWC, §26.040(h). Denial of authorization for disposal under this general permit will be done according to commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*. If authorization for disposal is denied under this general permit, the executive director may require the person whose authorization is denied to apply for an individual permit.
9. The executive director may deny an application for authorization under a general permit, and may require that the applicant apply for an individual permit, for any of the reasons described in 30 TAC §§205.4(c)(3)(A) - (F). Additionally, the executive director may cancel, revoke, or suspend authorization for disposal under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit.

Section C. Application for Coverage

1. Contents of the Notice of Intent (NOI)

Applicants seeking authorization for disposal of wastewater under this general permit must submit a completed NOI on a form approved by the executive director at least 30 calendar days before disposing of wastewater. The NOI shall, at a minimum, include:

- a. the legal name and address of the owner and operator;
 - b. the facility name and address;
 - c. the location, description, and size of each evaporation pond; and
 - d. a description of each wastestream entering the evaporation pond.
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 immediately following

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confirmation of receipt of the electronic NOI form by the TCEQ. The NOI must be submitted to the address indicated on the NOI form. Following review of the NOI, the executive director will:

- a. determine that the NOI is complete and confirm coverage by providing a written notification and an authorization number;
 - b. determine that the NOI is incomplete and request additional information needed to complete the NOI; or
 - c. deny coverage in writing. Denial of coverage will be made in accordance with 30 TAC §205.4, *Applications and Notices of Intent*.
3. For activities located in areas regulated by 30 TAC Chapter 213, *Edwards Aquifer*, this authorization is separate from the requirements of those rules. Disposal may not commence for sites regulated under 30 TAC Chapter 213 until all applicable requirements of the Edwards rules are met, including an approved Edwards Aquifer protection plan, if applicable. For facilities located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants shall also submit a copy of the NOI to the appropriate TCEQ Regional Offices shown below. The applicant may not dispose of wastewater by evaporation until authorization is received from the regional office.

Counties: Comal, Bexar, Medina, and Kinney

Counties: Williamson, Travis, and Hays

Contact:

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

Contact:

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

4. Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator shall submit a Notice of Termination (NOT) and the new owner and operator shall 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.
5. If the owner or operator becomes aware that they failed to submit any relevant facts, or submitted incorrect information in an NOI, or that information provided in the NOI changes (for example, permittee address or details about an evaporation pond), the correct information shall be provided to the executive director in a Notice of Change (NOC) within 14 days after discovery. An NOT is required for a change in the site location or changes in ownership or operator.

Section D. Termination of Coverage

1. A permittee shall terminate coverage 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, or when disposal becomes unnecessary, is delayed, or is authorized under an individual permit.
2. An NOT must be submitted within 10 days after the facility completes the closure requirements in Part III.B.3., obtains coverage under an individual permit, or obtains coverage under an alternative general permit. Compliance with the conditions and requirements of this permit are required until an NOT is submitted.
3. Unless coverage is terminated because authorization has been obtained under an alternative general permit or an individual permit, the permittee must include, with the NOT, the certification that all evaporation ponds have been properly closed, in accordance with Part III.B.3.
4. Authorization to dispose of wastewater terminates on the day that an NOT is postmarked for delivery. If the TCEQ provides for electronic submission of NOTs, authorization under this general permit terminates immediately following confirmation of receipt of the electronic NOT form by the TCEQ.

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, *Consolidated Permits*.
2. When an individual permit is issued for wastewater disposal that is currently authorized under this general permit, the permittee shall submit an NOT to the executive director. The permittee cannot hold both a general permit authorization and an individual permit for the same wastewater disposal activity.
3. The disposal of wastewater from facilities currently authorized by an individual 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 requirements related to monitoring, facility inspections, or evaporation pond design, construction, or operation that are more stringent than the requirements of this general permit, unless the conditions that resulted in the requirements have ceased and any contamination that resulted in those requirements 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;

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- 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 submits an NOI and requests cancellation or amendment of the existing individual permit, as appropriate.

Section F. Permit Expiration, Renewal, or Amendment

1. This general permit is effective for five years from the issued date. Authorizations for disposal 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, or cancelled by the commission after notice and comment as provided by 30 TAC § 205.3, *Public Notice, Public Meetings, and Public Comment* and §205.5, *Permit Duration, Amendment, and Renewal*.
2. In accordance with 30 TAC Chapter 205, *General Provisions for Waste Discharges*, if the executive director proposes to reissue this general permit prior to the expiration date, the general permit shall remain in effect after the expiration date for those existing facilities authorized under the permit. The general permit will remain in effect for authorized facilities until the date the commission takes final action on the proposal to reissue this general permit. No new NOIs will be accepted or new authorizations issued under this general permit after the expiration date of this general permit or after the effective date of an amended and re-issued general permit.
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. A facility that obtained authorization under the March 28, 2014 General Permit WQG100000 prior to the effective date of this general permit is not required to submit an NOI and may continue to operate under the terms and conditions of this general permit, until such time as this general permit is amended, renewed, or expired.
4. According to 30 TAC §205.5(d), *Permit Duration, Amendment, and Renewal*, if the commission does not propose to reissue this general permit 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.

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1. The permittee shall notify the appropriate TCEQ Regional Office at least one calendar week before putting into operation any new or replacement evaporation pond. For purposes of this general permit, "putting into operation" means the evaporation pond commences the receipt of wastewater.
2. Facilities that 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, *Solid Waste Disposal*.
3. Facilities authorized by this general permit shall meet any applicable requirements relating to the authorization of air contaminant emissions under 30 TAC Chapter 116, *Control of Air Pollution by Permits for New Construction or Modification*.
4. In the event that the requirements of this general permit conflict with other applicable rules or statutes, the permittee shall comply with the most stringent requirement.
5. The facility shall be designed and operated to prevent the occurrence of a nuisance condition.
6. 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 provide notification to TCEQ as required in Part III. A.7.a.
7. 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. The information shall be provided orally or by facsimile transmission (FAX) to the appropriate TCEQ Regional Office within 24 hours of the permittee becoming aware of the noncompliance. A written report shall also be provided by the permittee to the appropriate TCEQ Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written report shall contain:
 - (1) a description of the noncompliance and its cause;
 - (2) the potential danger to human health or safety, or the environment;
 - (3) 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
 - (4) steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.

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- b. In the event the evaporation pond or the evaporation pond leak collection system overflows, the permittee shall give 24-hour oral or fax notice and five-day written notice to TCEQ as required by paragraph 7.a. above.
- c. Any noncompliance other than that specified in paragraphs 7.a. and 7.b. above, or any required information that was not submitted or submitted incorrectly in response to any noncompliance, shall be reported to the appropriate TCEQ Regional Office and to the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance or that incorrect information was submitted.

Section B. Evaporation Pond Design, Construction, and Closure

- 1. Design Analysis. A licensed Texas professional engineer shall design evaporation ponds according to the following criteria. Rainfall and evaporation data for the area where the facility is located or proposed to be located must be obtained from the Texas Water Development Board. Written documentation shall include the reference sources for rainfall and evaporation data. The design shall be signed and sealed by a Texas licensed professional engineer. This certification and all supporting documents must be retained onsite until the evaporation pond is closed in accordance with Part III.B.3 of this permit.
 - a. Evaporation ponds must be designed and maintained to prevent any discharge into water in the state.
 - b. Evaporation pond sizing shall be based upon whichever of the following two evaluations results in a larger capacity pond. Both evaluations must use the example water balances provided in Appendix A.
 - (1) Average Conditions: The evaporation pond must have enough surface area and capacity to evaporate the design flow to the pond under average rainfall and average evaporation conditions with no annual accumulation.
 - (2) Critical Conditions: The evaporation pond must have enough surface area and capacity to evaporate the design flow to the pond under the highest rainfall and lowest evaporation conditions in the last 25 years.
 - c. For evaporation ponds that were constructed prior to the effective date of this general permit that do not comply with the sizing requirements in Part III.B.1.b., the permittee shall implement measures or provide additional storage to store and dispose of the additional wastewater (the difference between required pond volume and the actual pond volume). The permittee must implement one or more of the following measures to prevent an unauthorized discharge from the evaporation pond(s):
 - (1) construct additional evaporation pond(s) in compliance with Part III.B.1.b.;
 - (2) provide adequate alternate source of storage and disposal of additional wastewater;
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- (3) develop a contingency plan which identifies that the permittee is capable of managing any additional wastewater. The plan shall be put into effect when the evaporation pond exceeds storage capacity (encroaches into the freeboard) and prior to an unauthorized discharge and may include the following:
 - i) contract with a third party to haul the additional wastewater offsite to a TCEQ permitted wastewater treatment facility;
 - ii) connect to a Publicly Owned Treatment Works (POTW);
 - iii) modify the facility processes or wastewater management;
 - iv) implement evaporation enhancing measures; or
 - v) implement other equivalent approaches.
 - d. Design of the evaporation pond shall include a top freeboard of not less than two feet. The design shall also account for settlement and slope stability of the materials used at the time of design and construction.
 - e. Evaporation ponds shall be designed with a volume allocation for solids accumulation based on the expected settleable solids content of the wastewater. The design shall identify the period of time used for calculating the solids volume allocation.
 - f. The engineer shall generate a report that identifies:
 - (1) the existence of any geological formations such as faults or sinkholes at the facility, which may provide a hydrologic connection for stored wastewater to recharge groundwater.
 - (2) soil types and standard classifications for the location of each evaporation pond. Soil surveys compiled by the United States Department of Agriculture Natural Resources Conservation Service (NRCS) shall be utilized where available. Design aspects related to wastewater seepage shall address the soil's physical and chemical properties, and hydraulic characteristics. Soil limitations should also be addressed such as, but not limited to, rapid permeability, seasonal perched groundwater, and decreased available water capacity.
 - (3) the impact of wastewater seepage on the uses and water quality of local groundwater resources. The design of evaporation ponds must preclude the migration of wastewater and recharge into the underlying groundwater.
2. Evaporation Pond Construction Requirements. All evaporation ponds shall conform to the following requirements, except evaporation ponds for which: (1) a notification was provided to the TCEQ in accordance with 30 TAC 335.2(d) and 30 TAC 335.6 that was acknowledged, in writing, prior to the effective date of this general permit; or (2) a water quality Texas Land Application Permit was issued prior to the effective date of this general permit.

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- a. Each evaporation pond shall be constructed with a liner that meets one of the following requirements.
 - (1) Soil Liner: The soil liner shall contain clay-rich soil material (at least 30% of the liner material passing through a #200 mesh sieve, liquid limit greater than or equal to 30, and plasticity index greater than or equal to 15) which completely covers the sides and bottom of the evaporation pond. The liner material shall be compacted in lifts of no more than 8 inches to 95% standard proctor density at the optimum moisture content in accordance with ASTM D 698 to achieve a permeability equal to or less than 1×10^{-7} cm/sec. The liner shall be a minimum thickness of 3.0 feet.
 - (2) Synthetic Liner: The liner shall be either a plastic or rubber membrane liner at least 40 mils in thickness that completely covers the sides and the bottom of the evaporation pond and that is not subject to degradation due to reaction with wastewater with which it will come into contact. If the lining material is vulnerable to ozone or ultraviolet deterioration, it shall be covered with a protective layer of soil of at least six inches or other suitable material. An evaporation pond with a membrane liner must include an underdrain with a leak detection and collection system.
- b. The permittee shall provide certification, signed and sealed by a Texas licensed professional engineer, that the completed lining and any required underdrain with a leak detection and collection system for the evaporation pond meet the above requirements prior to putting the evaporation pond into operation. A copy of the liner certification and any underdrain construction details (i.e., as-built drawings) for the evaporation pond shall be kept onsite until the evaporation pond is closed in accordance with the requirements of Part III.B.3.
- c. Soils used in the construction of an evaporation pond'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.
- d. The following requirements must be met at the time: 1) a facility obtains authorization under this general permit; or 2) a facility that is currently authorized by this general permit begins construction of a new evaporation pond.
 - (1) Evaporation ponds shall not be located closer than 500 feet from a public water supply well.
 - (2) Evaporation ponds shall not be located closer than 150 feet from a private water well.

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- (3) Evaporation ponds 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, unless:
 - i. The affected landowner within the buffer zone provides written consent and approval of the location of the evaporation pond. The written consent must include the following: Name, physical address, mailing address, and phone number of the affected landowner; a description of the evaporation pond within the buffer zone for which the landowner is giving consent; an acknowledgement of consent by the affected landowner that excuses the permittee from otherwise applicable legal requirements regarding the buffer zone; and the signature of the affected landowner. In addition to the consent of the affected landowner, written consent is required from the governmental entity responsible for operating a school or public park, if the governmental entity is not the owner of the land; or
 - ii. An odor control plan, certified by a licensed Texas professional engineer, is developed and implemented to control nuisance 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, proposed solutions to prevent nuisance conditions at the edge of the property line and beyond, and identify all structural and management practices that the permittee must employ to minimize odor and control air contaminants at the facility. The plan must also address wastewater storage. If the executive director determines that the implementation and employment of these practices is not effective in controlling air contaminants, the permittee 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.
 - e. Evaporation ponds may not be located in the 100-year flood plain, as defined in 30 TAC Chapter 301, *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 a 100-year flood event.
3. Closure. Closure activities include the discontinued use of any evaporation pond regulated by this general permit. The permittee shall develop a closure plan that shall be kept onsite. Closure activities shall be conducted pursuant to the requirements of 30 TAC Chapter 335, 30 TAC Chapter 350, all other applicable regulations, and the closure plan. In accordance with 30 TAC § 335.8(b)(1), a permittee operating an evaporation pond shall notify the Corrective Action Section (MC-127) of the Remediation Division, in writing, of any closure activity at least 90 days prior to commencing such an activity. At a minimum the closure plan shall include procedures to make the following determinations:
 - a. If a release to the environment has occurred. If a release is confirmed, determine the lateral and vertical extent of contamination through compliance with 30 TAC Chapter 350;

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- b. The quantity of solid and liquid waste 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. For evaporation ponds that will be closed with waste in place, the permittee shall comply with the requirements of 30 TAC Chapter 350;
- 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 that 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 Corrective Action Section (MC-127) of the Remediation Division within 90 days of completion of closure and shall provide detailed information on: 1) laboratory analysis conducted regarding release determination; 2) if the release determination indicates that there is a release or a potential for release subject to 30 TAC 350, the permittee shall conduct an investigation and necessary corrective action in accordance with the requirements of 30 TAC Chapter 350; 3) description of removal or decontamination activities; 4) laboratory analysis conducted regarding verification sampling (verification of samples are confirmatory samples of media which document the removal and decontamination of all waste or waste materials); 5) waste disposal activities; and 6) closure certification. The closure certification shall indicate that closure activities were conducted according to the closure plan, must be certified by a licensed Texas professional engineer, and must be signed by the owner and operator.

Section C. Operational Requirements

1. Wastewater Monitoring. Wastewater grab samples shall be collected and analyzed quarterly for total suspended solids, pH, and oil and grease. The wastewater samples shall be collected at a point located after all waste streams are commingled but prior to the wastewater entering the evaporation pond. If waste streams are not commingled, each waste stream must be sampled prior to entering the evaporation pond and analyzed separately. The wastewater samples shall be collected, stored, and transported to a laboratory using acceptable procedures, and analyzed by a National Environmental Laboratory Accreditation Program accredited laboratory, in accordance with 30 TAC Chapter 319, *Monitoring and Reporting System*
2. Liner Maintenance and Repair.
 - a. The permittee must maintain any evaporation pond liner to inhibit infiltration of wastewater.

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- b. The evaporation pond and liner shall be restricted from access by unauthorized personnel, and domestic and wild animals by fences or other protective devices. A facility perimeter fence or specific pond fencing may be used to satisfy this requirement.
- 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 an evaporation pond or on an earthen levee or embankment.
- d. Any mechanical or structural damage to the liner shall be evaluated by a licensed Texas professional engineer within 30 days of the damage. If the licensed Texas professional engineer determines that the liner is damaged or does not meet the requirements in Part III.B.2.a., the evaporation pond must be removed from service within 24 hours and repaired. The evaporation pond may be put back into service after compliance with Part III.A.1. and Part III.B.2.b.
- e. Documentation of liner maintenance and repair shall be kept onsite.
- f. The permittee shall have a licensed Texas professional engineer review the documentation and complete an onsite evaluation of each evaporation pond every five years.
- g. If determined by the permittee or if notified by the executive director that significant potential exists for the contamination of groundwater or surface water, the permittee shall submit a groundwater monitoring plan in accordance with that notice. Upon approval by the executive director of the groundwater monitoring plan, the permittee shall implement the plan in accordance with the approved schedule.

3. Solids Management

- a. The permittee shall measure the solids volume in each evaporation pond every five years or at a frequency equal to the design period used to calculate the solids volume allocation, whichever is sooner. A record of the solids volume and the date measured shall be retained onsite. Solids shall be removed from the evaporation pond to prevent the solids volume from exceeding the designed volume allocation for solids accumulation.
- b. 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 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 general permit.
- c. The permittee shall notify the appropriate TCEQ Regional Office in writing two weeks prior to the time any evaporation pond is either cleaned out by means other than pumping or a liner is repaired or replaced. If the evaporation pond is cleaned out by

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means other than pumping or the liner is repaired or replaced, the permittee shall have the liner re-certified by a licensed Texas professional engineer. A copy of the liner re-certification shall be kept onsite until the evaporation pond is closed in accordance with the requirements of Part III.B.3.

- d. Solids removed from the evaporation pond shall be disposed of in accordance 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, *Solid Waste Disposal*.

4. Other Operational Requirements.

- a. The permittee shall maintain direct responsibility and control over all aspects of the wastewater storage and disposal system.
- b. Stormwater drainage shall be designed to prevent or minimize commingling with wastewater or entry into evaporation ponds.
- c. There shall be no water quality impairment to public and neighboring private drinking water wells or to water in the state due to wastewater handling at the facility.
- d. 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.
- e. Wastewater shall be managed in a manner that prevents the occurrence of nuisance conditions.
- f. Infrastructure including pipes, ditches, pumps, and diversions shall be maintained to ensure ability to fully comply with the terms of this general permit.
- g. The permittee shall make a visual inspection of each evaporation pond weekly and keep a record of inspections onsite for five years from the date of each inspection. The inspection shall document:
 - (1) the wastewater level;
 - (2) the presence of scum, floating solids, or floating vegetation;
 - (3) if erosion of the embankment has occurred;
 - (4) if trees, shrubs, or other woody vegetation is growing in the evaporation pond or on the embankment;
 - (5) if the synthetic liner is torn, punctured, or deteriorated; and

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- (6) if leak detection and collection systems, if applicable, are in proper working condition and if a leak has occurred.
- h. The permittee shall take corrective action within 24 hours after a visual inspection that identifies a wastewater level that may cause an overflow; scum, floating solids, or floating vegetation in the evaporation pond; embankment erosion; trees, shrubs, or other woody vegetation growing in the evaporation pond or the embankment; faulty leak detection systems; or leaks from the evaporation pond liner or embankment.
- i. Leaking evaporation ponds shall be removed from service within 24 hours and repaired. The permittee shall provide the required notifications in Part III.A.7.a for leaking evaporation ponds. The evaporation pond may be put back into service after compliance with Part III.A.1. and Part III.B.2.b.

Section D. Recordkeeping Requirements

1. All records, reports, drawings, certifications, and other documentation required by this general permit must be maintained for a minimum period of five years from the date of the record unless otherwise required by this general permit. This period may be extended at the request of the executive director.
2. Technical Report. The permittee shall develop and maintain a Technical Report. The Technical Report must be kept onsite, made readily available for review by authorized TCEQ personnel upon request, and updated if changes occur at the facility. The Technical Report must contain the following records:
 - a. All engineering design documents required in Part III.B.1 of this general permit. These documents must be retained onsite until the evaporation pond is closed in accordance with Part III.B.3 of this permit.
 - b. A scaled site drawing of all land that is to be a part of the facility that shows the location of all existing and proposed structures and areas of the facility to include: wastewater treatment facilities, buildings, evaporation ponds, buffer zones, and water wells. A United States Geological Survey topographic map (7 ½ minute series if available) of the area should be used to plot the exact boundaries of the facility. This drawing should have an index of wells and other prominent features.
 - c. Inspection reports and corrective actions taken.
 - d. Liner certifications and maintenance documentation for each evaporation pond. These documents and any underdrain construction details (i.e., as-built drawings) for the evaporation pond must be retained onsite until the evaporation pond is closed in accordance with Part III.B.3 of this permit.
 - e. As-built capacity of each evaporation pond, certified by a licensed Texas professional engineer. As-built capacity certifications shall be kept onsite until the evaporation pond is closed in accordance with the requirements of Part III.B.3

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- f. Solids volumes, dates the volume is measured, and solids cleanout dates.
- g. Wastewater analyses.
- h. NOIs, NOTs, and NOCs submitted to the executive director and acknowledgement certifications.
- i. Non-compliance notifications and reports submitted to the executive director.
- j. Odor control plan and written consent letters related to buffer zones, if applicable.
- k. Closure plan(s), post-closure report(s), and closure certification(s).
- l. Monitoring well map and analyses, if applicable.

Part IV. Standard Permit Conditions.

1. The permittee has a duty to comply with all applicable sections of Chapter 26 of the Texas Water Code, TCEQ rules and all conditions in this general permit. Failure to comply with the statutes, rules, or any condition of the general permit will constitute 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 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 the permit conditions. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with this general permit.
4. The permittee shall furnish any information, at the written 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. Inspection and entry shall be allowed under TWC Chapters 26 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.

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- 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 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), *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, *Signatories to Reports*.
 8. Authorization under this general permit may be suspended or revoked for the reasons stated in 30 TAC § 205.4, *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 this general permit; and

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- c. knowingly making any false statement, representation, or certification in any record or other document submitted or required to be maintained under this general 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 \$1,250 for the following fiscal year.

**Appendix A
Evaporation Pond Evaluation
Average Condition Evaluation**

The pond(s) must have enough surface area to evaporate all the flow to the pond(s) under average rainfall conditions. The pond is considered adequately sized when the Total Storage Necessary is less than or equal to zero. If this value is greater than zero, the pond's surface must be increased or the effluent flow reduced to ensure that no accumulation occurs during average conditions.

The following is a summary of calculations performed in determining the Total Storage Necessary:

Effluent Flow, in MGD: _____
 Pond Surface Acres: _____
 Pond Storage Volume, in acre-feet: _____
 TWDB Quadrangle: _____

| <u>Month</u> | <u># of Days</u> | <u>Flow to Pond (acre-feet)</u> | <u>Evap Rate (feet)</u> | <u>Evap From Ponds (acre-feet)</u> | <u>Storage Requirement (acre-feet)</u> |
|-------------------------|------------------|---------------------------------|-------------------------|------------------------------------|--|
| January | 31 | 0 | | 0 | 0 |
| February | 28 | 0 | | 0 | 0 |
| March | 31 | 0 | | 0 | 0 |
| April | 30 | 0 | | 0 | 0 |
| May | 31 | 0 | | 0 | 0 |
| June | 30 | 0 | | 0 | 0 |
| July | 31 | 0 | | 0 | 0 |
| August | 31 | 0 | | 0 | 0 |
| September | 30 | 0 | | 0 | 0 |
| October | 31 | 0 | | 0 | 0 |
| November | 30 | 0 | | 0 | 0 |
| December | 31 | 0 | | 0 | 0 |
| Total Storage Necessary | | | | | 0 |

Flow to Pond = (Effluent Flow (MGD)) * (# of Days) * (3.0684)
 Evaporation Rate = Average monthly net evaporation¹
 Evaporation From Pond = (Pond Surface Acres) * (Evaporation Rate)
 Storage Requirement = (Flow to Pond) - (Evaporation From Pond)
 Total Storage Necessary = SUM (Storage Requirement)

¹Texas Water Development Board Lake Evaporation and Precipitation data for the appropriate Quadrangle for the period of record 1954 through present.

**Appendix A
Evaporation Pond Evaluation
Critical Condition Evaluation**

The critical condition evaluation is designed to evaluate the storage capacity of the pond(s) under a "worst case scenario." The worst case scenario is defined as the 25 year lowest net evaporation assuming daily flow to the pond at the permitted rate. The pond's storage capacity is considered adequate when the Total Storage Necessary is less than or equal to the Pond Storage Volume (the pond could contain all wastewater discharged when evaporation is lowest).

The following is a summary of calculations performed in determining the Total Storage Necessary:

Effluent Flow, in MGD: _____
 Pond Surface Acres: _____
 Pond Storage Volume, in acre-feet: _____
 TWDB Quadrangle: _____

| <u>Month</u> | <u># of Days</u> | <u>Flow to Pond (acre-feet)</u> | <u>Evap Rate (feet)</u> | <u>Evap From Ponds (acre-feet)</u> | <u>Storage Requirement (acre-feet)</u> |
|-------------------------|------------------|---------------------------------|-------------------------|------------------------------------|--|
| January | 31 | 0 | | 0 | 0 |
| February | 28 | 0 | | 0 | 0 |
| March | 31 | 0 | | 0 | 0 |
| April | 30 | 0 | | 0 | 0 |
| May | 31 | 0 | | 0 | 0 |
| June | 30 | 0 | | 0 | 0 |
| July | 31 | 0 | | 0 | 0 |
| August | 31 | 0 | | 0 | 0 |
| September | 30 | 0 | | 0 | 0 |
| October | 31 | 0 | | 0 | 0 |
| November | 30 | 0 | | 0 | 0 |
| December | 31 | 0 | | 0 | 0 |
| Total Storage Necessary | | | | | 0 |

Flow to Pond = (Effluent Flow (MGD)) * (# of Days) * (3.0684)

Evaporation Rate = 25 year lowest net evaporation distributed by month¹

Evaporation From Pond = (Pond Surface Acres) * (Evaporation Rate)

Storage Requirement = (Flow to Pond) - (Evaporation From Pond)

Total Storage Necessary = SUM (Storage Requirement)

¹Texas Water Development Board Lake Evaporation and Precipitation data for the appropriate Quadrangle for the most recent 25 year period.

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION GENERAL PERMIT WQG100000

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

Prepared by: Laurie Fleet
Wastewater Permitting Section
Water Quality Division
(512) 239-5445

Date: February 27, 2015

Permit Action: Renewal with Amendment

I. Summary

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to renew and amend General Permit WQG100000, which authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state. This general permit does not authorize the discharge of wastewater into water in the state. The draft general permit specifies the types of wastewaters that are not eligible for coverage, and other criteria that would limit a facility's ability to qualify for coverage under the general permit.

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 the effective date following the requirements of 30 Texas Administrative Code (TAC) §205.5(a).

III. Permit Applicability

- A. The draft permit authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state, except wastewater that:
1. Has an oil and grease concentration greater than 100 milligrams per liter;
 2. has a pH that is:
 - a. less than 5.0 standard units;
 - b. more than 10.0 standard units;
 - c. outside the liner manufacturer's recommended pH range for synthetic liners; or

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- d. corrosive to the evaporation pond liner.
 3. creates a fire or explosion hazard;
 4. contains any radioactive substances, hazardous wastes, or medical wastes;
 5. contains constituents that will inhibit evaporation, or are incompatible with or would damage the evaporation pond liner;
 6. is regulated under another wastewater general permit; or
 7. consists solely of domestic wastewater, subject to the requirements of 30 TAC Chapter 309, *Domestic Wastewater Effluent Limitation and Plant Siting*.
- B. The following would not be eligible for general permit coverage:
1. No discharge is allowed into water in the state. Discharge by disposal of wastewater by evaporation from surface impoundments adjacent to water in the state is allowed only under the conditions described in the draft general permit.
 2. Industrial or water treatment facilities that are located in areas of the state where the average annual rainfall exceeds the average annual lake surface evaporation rate are prohibited from obtaining coverage under the draft general permit.
- C. The draft general permit does not provide authorization for the storage, processing, or disposal of solid waste. 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, and 335, *Sewage Sludge Use, Disposal and Transportation, Municipal Solid Waste, and Industrial Solid Waste and Municipal Hazardous Waste*, respectively.
- D. The draft general permit does not authorize the discharge or disposal of stormwater otherwise authorized by the Construction General Permit (TXR150000), the Multi-Sector General Permit (TXR050000), or an individual stormwater permit. It is the responsibility of any person conducting such activities to obtain authorization under the Construction General Permit (TXR150000), the Multi-Sector General Permit (TXR050000), or an individual stormwater permit.
- E. The draft general permit does not authorize the discharge or disposal of wastewater generated at a Concentrated Animal Feeding Operation, as defined in 30 TAC Chapter 321, Subchapter B, *Concentrated Animal Feeding Operations*.
- F. 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 oil and gas facilities.
- F. Disposal of wastewater shall not be authorized by this general permit where prohibited by 30 TAC Chapter 213, *Edwards Aquifer*, 30 TAC Chapter 311, *Watershed Protection*, or any

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other state statute, rule, or regulation.

- G. The executive director shall deny or suspend a facility's authorization for disposal under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC §60.3, *Use of Compliance History*. The executive director shall deny an application for authorization under this general permit for any of the reasons described in 30 TAC §205.4(c)(2)(A) - (F). 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 coverage denied or suspended, in accordance with Texas Water Code (TWC), §26.040(h). Denial of authorization for disposal under this general permit will be done according to commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*. If authorization for disposal is denied under this general permit, the executive director may require the person whose authorization is denied to apply for an individual permit.
- H. The executive director may deny an application for authorization under a general permit, and may require that the applicant apply for an individual permit, for any of the reasons described in 30 TAC §205.4(c)(3)(A) - (F). Additionally, the executive director may cancel, revoke, or suspend authorization for disposal under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit.

IV. Permit Limitations and Requirements

- A. All evaporation ponds shall be designed by a licensed Texas professional engineer and be maintained to prevent any discharge into water in the state.
- B. Evaporation pond sizing shall be based on whichever of the following two evaluations results in a larger capacity pond: average conditions or critical conditions. Both evaluations must use the example water balances provided in Appendix A of the draft general permit. For evaporation ponds that are constructed prior to the effective date of the draft general permit that do not comply with the sizing requirements, the permittee shall implement measures or provide additional storage to store and dispose of the additional wastewater as provided in the draft general permit.
- C. Evaporation ponds shall be designed with a volume allocation for solids accumulation based on the expected settleable solids content of the wastewater. The design shall include a top freeboard of not less than two feet.
- D. All evaporation ponds shall be constructed according to requirements identified in the draft permit, except evaporation ponds for which: (1) a notification was provided to the TCEQ in accordance with 30 TAC §335.2(d) and §335.6 that was acknowledged, in writing, prior to the effective date of this permit; or (2) a water quality Texas Land Application Permit was issued prior to the effective date of this permit. The construction requirements include a pond liner, embankment wall construction and stabilization, location setbacks from water wells and odor receptors.
- E. The permittee shall measure the solids volume in each evaporation pond every five years

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or at a frequency equal to the design period used to calculate the solids volume allocation, whichever is sooner. Solids shall be removed from the evaporation pond to prevent the solids volume from exceeding the designed volume allocation for solids accumulation.

- F. Wastewater grab samples shall be collected and analyzed quarterly for pH, total suspended solids, and oil and grease.
- G. The permittee shall make a visual inspection of each evaporation pond weekly and keep a record of inspections onsite for five years from the date of each inspection. The inspection shall document:
 - 1. the wastewater level;
 - 2. the presence of scum, floating solids, or floating vegetation;
 - 3. if erosion of the embankment has occurred;
 - 4. if trees, shrubs, or other woody vegetation is growing in the evaporation pond or on the embankment;
 - 5. if the synthetic liner is torn, punctured, or deteriorated; and
 - 6. if leak detection and collection systems, if applicable, are in proper working condition and if a leak has occurred.
- H. The permittee shall take corrective action within 24 hours after a visual inspection that identifies a wastewater level that may cause an overflow; scum, floating solids, or floating vegetation in the evaporation pond; embankment erosion; trees, shrubs, or other woody vegetation growing in the evaporation pond or the embankment; faulty leak detection systems; or leaks from the evaporation pond liner or embankment. Leaking evaporation ponds shall be removed from service either until repairs are made or replacements are constructed.

V. Changes From Existing General Permit

- A. Part II.F.3 is revised to allow a facility that obtained authorization under the March 28, 2014 general permit WQG100000 prior to the effective date of this permit amendment to continue operating under the terms and conditions of this permit without having to submit an NOI. This provision is only applicable to this permit amendment action. It is not intended to be continued in future permit actions.
- B. Part III.B.2 is revised to exempt certain evaporation ponds from the construction requirements. Specifically exempted are evaporation ponds for which: (1) a notification was provided to the TCEQ in accordance with 30 TAC §335.2(d) and §335.6 that was acknowledged, in writing, prior to the effective date of this permit amendment; or (2) a water quality Texas Land Application Permit was issued prior to the effective date of this permit amendment. It is appropriate to exempt evaporation ponds that complied with the

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requirements of the TCEQ solid waste notification program or the TCEQ wastewater permitting program.

- C. Part III.B.2(d) is revised to remove the requirement to have a 100 foot setback from surface water in the state. The setback is not necessary to protect surface water quality because the evaporation ponds are not authorized to discharge, nor does the draft permit authorize irrigation adjacent to surface water in the state. A discharge from the evaporation pond would be a violation of the permit, regardless of the distance to the surface water. The draft permit retains the requirement that evaporation ponds may not be located within the 100-year flood plain unless protected from inundation and damage that may occur during such an event.
- D. Part III.B.3 was revised to make the closure requirements consistent with the requirements in 30 TAC Chapter 335 and 30 TAC Chapter 350, Texas Risk Reduction Program.
- E. Part III.C.4 was revised to clarify that the permittee must comply with the notification requirements for leaking evaporation ponds.
- F. Appendix A, Average Condition Evaluation was revised to clarify that the Evaporation Rate is for the total period of record.
- G. Appendix A, Critical Condition Evaluation was revised to clarify that the Evaporation Rate is for the most recent 25-year period.

VI. Addresses

Questions concerning this draft general permit should be directed to:

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

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:

- VI. Legal Basis
- VII. Regulatory Background

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- VIII. Permit Coverage
- IX. Technology-based Requirements
- X. Water Quality-based Requirements
- XI. Requirements for the Protection of Groundwater
- XII. Procedures for Final Decision
- XIII. Administrative Record

VII. Legal Basis

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, and TWC, §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 permit, since the permit would not authorize any discharge into waters of the United States as defined under the federal Clean Water Act and National Pollutant Discharge Elimination System requirements.

Neither national nor state guidelines establishing technology-based effluent limits have been promulgated for facilities that dispose of wastewater by evaporation. Due to the lack of federal guidelines, the requirements for these disposal activities have, therefore, been established using best professional judgment.

VIII. Regulatory Background

The executive director proposes to issue the proposed general permit, which would authorize wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state.

Consistent with 30 TAC §205.2, issuance of this permit is allowable, since the general permit, if issued, would establish the same operating conditions and similar monitoring requirements for industrial and water treatment facilities that dispose of wastewater by evaporation from surface impoundments adjacent to water in the state. These types of disposal activities are more appropriately regulated under a general permit based upon the requirements of 30 TAC §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, recordkeeping, and reporting requirements. The permit would also

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establish requirements for the protection of underlying groundwater, and prohibit any discharge into water in the state, and thus, is not expected to result in an adverse effect on the quality of either resource.

IX. Permit Coverage

- A. All applicants seeking initial authorization to dispose of wastewater under the general permit must submit a completed Notice of Intent (NOI) on a form approved by the executive director. A facility that obtained authorization under the March 28, 2014 general permit WQG100000 prior to the effective date of this permit amendment is not required to submit an NOI and may continue to operate under the terms and conditions of this permit. The general permit identifies the minimum required information on an NOI form.
- B. Submission of an NOI is an acknowledgment that the conditions of the general permit are applicable to the proposed disposal, and that the applicant agrees to comply with the conditions of the general permit. Provisional authorization to dispose of wastewater under the terms and conditions of the 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 the permit, provisional authorization begins immediately following confirmation of receipt of the electronic NOI form by the TCEQ.
- C. Authorization under the general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator shall submit a Notice of Termination (NOT) and the new owner and operator shall 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 failed to submit any relevant facts or submitted incorrect information in an NOI or that information provided in the NOI changes (for example, permittee address or details about an evaporation pond), the correct information shall be provided to the executive director in a Notice of Change (NOC) within 14 days after discovery. An NOT is required for a change in the site location or changes in ownership or operator.
- E. A permittee shall terminate coverage 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, when disposal becomes unnecessary, is delayed, or is authorized under an individual permit. Authorization to dispose of wastewater terminates on the day that an NOT is postmarked for delivery. If the TCEQ provides for electronic submission of NOTs, authorization under this permit terminates immediately following confirmation of receipt of the electronic NOT form by the TCEQ. An NOT must be submitted within ten days after the facility completes the closure requirements in Part III.B.3., obtains coverage under an individual permit, or obtains coverage under an alternative general permit.

X. Technology-Based Requirements

The regulations promulgated in 40 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 would only allow for the disposal of wastewater by evaporation from surface impoundments adjacent to water in the state.

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." The draft general permit does not authorize a discharge into water in the state. Therefore, no water quality based requirements for the protection of surface waters are proposed. However, the draft general permit includes requirements related to the design, construction, and operation of evaporation ponds to protect water quality.

1. Evaporation ponds to be sized based on the larger of two evaluations: average conditions and critical conditions. For evaporation ponds that are constructed prior to the effective date of this general permit that do not comply with the sizing requirements, the permittee shall implement measures or provide additional storage to store and dispose of the additional wastewater. The design shall include a top freeboard of not less than two feet.
2. Evaporation ponds shall be designed with a volume allocation for solids accumulation based on the expected settleable solids content of the wastewater. The permittee shall measure the solids volume in each evaporation pond every five years or at a frequency equal to the design period used to calculate the solids volume allocation, whichever is sooner. Solids shall be removed from the evaporation pond to prevent the solids volume from exceeding the designed volume allocation for solids accumulation.
3. The permittee shall conduct weekly visual inspections of the evaporation pond and take corrective action within 24 hours after a visual inspection that identifies a wastewater level that may cause an overflow.

XII. Requirements for the Protection of Groundwater

- A. The permittee shall notify the appropriate TCEQ regional office at least one calendar week before putting into operation any new or replacement evaporation pond.
- B. Each evaporation pond shall be constructed with either a clay liner or a synthetic liner. The draft permit specifies the design and construction criteria for each type of liner. The liner and any required leak detection and collection system must be certified by a licensed Texas professional engineer. Evaporation ponds for which: (1) a notification was provided to the TCEQ in accordance with 30 TAC§335.2(d) and §335.6 that was acknowledged, in writing, prior to the effective date of this permit amendment; or (2) a water quality Texas Land

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Application Permit was issued prior to the effective date of this permit amendment are not required to comply with the specific construction requirements in this permit.

- C. In designing the evaporation pond, the engineer shall generate a report that identifies:
1. the existence of any geological formations such as faults or sinkholes at the facility, which may provide a hydrologic connection for stored wastewater to recharge groundwater.
 2. soil types and standard classifications for the location of each evaporation pond. Soil surveys compiled by the United States Department of Agriculture Natural Resources Conservation Service shall be utilized where available. Design aspects related to wastewater seepage shall address the soil's physical and chemical properties, and hydraulic characteristics. Soil limitations should also be addressed such as, but not limited to, rapid permeability, seasonal perched groundwater, and decreased available water capacity.
 3. the impact of wastewater seepage on the uses and water quality of local groundwater resources. The design of evaporation ponds must preclude the migration of wastewater and recharge into the underlying groundwater.
- D. The permittee must maintain any evaporation pond liner to inhibit infiltration of wastewater. The permittee shall conduct weekly visual inspections of the evaporation pond and take corrective action within 24 hours after a visual inspection that identifies a wastewater level that may cause an overflow; scum, floating solids, or floating vegetation in the evaporation pond; embankment erosion; trees, shrubs, or other woody vegetation growing in the evaporation pond or the embankment; faulty leak detection systems; or leaks from the evaporation pond liner or embankment. Any mechanical or structural damage to the liner shall be evaluated by a licensed Texas professional engineer within 30 days of the damage. A licensed Texas professional engineer must complete an onsite evaluation of each evaporation pond every five years.
- E. Closure of an evaporation pond includes the development of a closure plan, a final report of closure activities, and a closure certification by a licensed Texas professional engineer. A closure plan describes the actions that will be taken to ensure that all wastes will be removed and disposed of properly.

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 disposal under the general permit could be located;

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- B. persons on a relevant mailing list kept under 30 TAC §39.407, *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. Rules:

30 TAC Chapters 39, 50, 60, 205, 213, 305, 307, 309, 312, 330, 332, 335, 336, and 350

B. Statutes:

TWC, §§5.103, 5.105, 26.001, 26.014, 26.027, 26.040, and 26.121

Texas Health and Safety Code, §§361.017, 361.024, 361.032-361.033, and 361.037

**DOCKET NO. 2015-0170-MIS
General Permit No. WQG100000**

| | | |
|--|----------|-------------------------|
| IN THE MATTER OF A RENEWAL WITH | § | BEFORE THE TEXAS |
| AMENDMENTS OF A GENERAL | § | COMMISSION ON |
| PERMIT THAT AUTHORIZES | § | ENVIRONMENTAL |
| WASTEWATER GENERATED BY | § | QUALITY |
| INDUSTRIAL OR WATER TREATMENT | § | |
| FACILITIES TO BE DISPOSED OF BY | § | |
| EVAPORATION FROM SURFACE | § | |
| IMPOUNDMENTS ADJACENT TO | § | |
| WATER IN THE STATE | | |

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 general permit which authorizes wastewater generated by industrial or water treatment facilities to be disposed of by evaporation from surface impoundments adjacent to water in the state, was drafted and proposed by the Executive Director and is attached as Exhibit A;

WHEREAS, the TCEQ received public comments 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 September 9, 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