

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

AGENDA REQUESTED: March 3, 2016

DATE OF REQUEST: February 12, 2016

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Sherry Davis, (512) 239-2141

CAPTION: Docket No. 2015-1217-MIS. Consideration of the adoption of the renewal with amendment of a Texas Pollutant Discharge Elimination System (TPDES) general permit authorizing discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture. Public notice of the proposed draft permit was published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7268). (Laurie Fleet, Alicia Ramirez) (Non-Rule Project No. 2015-013-OTH-NR).

L'Oreal W. Stepney, P.E.

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Copy to CCC Secretary? NO X YES

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: February 12, 2016

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

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

Docket No.: 2015-1217-MIS

Subject: General Permit: Commission Approval for Adoption
Renewal with Amendment of the Aquaculture General Permit No. TXG130000
Project No. 2015-013-OTH-NR

Summary and Background:

This is a renewal with amendment of a Texas Pollutant Discharge Elimination System (TPDES) general permit authorizing discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture. The renewal with amendment will replace the current general permit that expires on April 18, 2016.

Basic Requirements:

A. Applicability: TPDES General Permit No. TXG130000 authorizes the discharge of wastewater into or adjacent to water in the state from aquaculture facilities and other activities that are related to aquaculture.

B. Requirements: Permit eligibility is divided into four levels of authorization based on activity and size with each level having specific regulatory requirements.

- Level I authorizes discharges from activities related to aquaculture such as retail bait dealers, aquariums, and pay lakes. Authorization under Level I satisfies the requirements necessary for a Texas Department of Agriculture (TDA) license.
- Level II authorizes discharges into water in the state from aquaculture facilities that fall below the federal criteria. The federal criteria are based on the number of discharge days per year, production in pounds per year, and feed usage in pounds per month. Level II also authorizes discharges adjacent to water in the state via land application or evaporation. Federal authorization is not required for Level II facilities.
- Level III authorizes discharges into water in the state from aquaculture facilities that meet the federal criteria as defined in 40 Code of Federal Regulations (CFR) Part 122 and shrimp research facilities that are located within the coastal zone and that meet certain criteria. Federal authorization is required for Level III facilities.
- Level IV authorizes discharges into water in the state from aquaculture facilities that meet the federal criteria as defined in 40 CFR Part 451. Federal authorization is required for Level IV facilities.

Level II, III, and IV facilities must submit a Notice of Intent (NOI) to the Texas Commission on Environmental Quality (TCEQ, agency, or commission) to obtain authorization under the general permit. Copies of all NOIs are sent to the Texas Parks & Wildlife Department

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(TPWD) and the TDA for review based on the Memorandum of Understanding with these agencies (30 TAC §7.103).

Discharges into water in the state are subject to numeric effluent limitations. These limitations were continued from the existing permit; however, an additional reporting requirement for Carbonaceous Biochemical Oxygen Demand (5-day) in milligrams per liter (mg/L) was added.

C. Fees:

Application Fee:	Level II, III, and IV - \$100.00
Annual Fee:	Level II - \$100.00
	Level III and IV - \$250.00

No fees are assessed to Level I Facilities.

Number of current/expected authorizations:

There are currently 33 facilities authorized by NOI submittals under this general permit. A significant number of additional NOIs are not expected.

Proposed changes from the current permit:

A. The following definitions (Part I) were revised:

1. Added a definition for "aquaculture facility." This term is used throughout the permit to collectively refer to Level II, III, and IV facilities.
2. Revised the definitions for "concentrated aquatic animal production facility and "aquatic animal production facility to remove duplicate language in the definition of "aquaculture facility."
3. Removed the definition for "facility" and "process controls." The previous definitions did not correspond to the use of the terms within the general permit.
4. Removed the definition for "tailwater control" because the term will not be used in the general permit.
5. Added a definition for "perennial stream."

B. Part II.B.8. was revised to add additional limitations on coverage that are related to compliance history rating of "unsatisfactory performer" and pursuant to the October 23, 2013, Commission Order on the Livestock Manure Composting General Permit, WQG200000, the draft permit was similarly revised to clarify that an applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the commission prior to denial or suspension of an authorization.

C. Parts III.A.2. and 3. regarding effluent limits were revised to require the permittee to report Carbonaceous Biochemical Oxygen Demand (5-day) in mg/L. This information will assist in evaluating effluent limitations in future permit actions.

D. Part III.B.10. was added which requires the permittee to develop a site map that depicts the site boundaries; each production pond; each waste management unit; the location of each outfall and sampling point if different from the outfall location; the location of all receiving waters; and the location of irrigation areas, if applicable. The map will assist both the

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permittee and TCEQ investigators with the overall facility layout and the location of pertinent components of the facility.

- E.** Part III.F.1. was added to authorize the beneficial re-use of wastewater on-site for all facility levels. Beneficial re-use of this wastewater allows for the conservation of surface and groundwater.
- F.** Part V.12 was added to grant a waiver to applicants and permittees from the electronic reporting requirements in 40 Code of Federal Regulations Part 127.

Additional minor revisions are identified in Section V of the Fact Sheet.

Planned stakeholder involvement:

A letter was sent to facilities that are currently authorized by NOI submittals under the general permit advising them on the upcoming renewal and providing an opportunity to send in preliminary suggestions. No comments were received. The draft permit was submitted concurrently to TPWD, TDA, and the United States Environmental Protection Agency (EPA) for review and comment. TDA and EPA had no comments on the draft permit. TPWD provided minor clarifications to the draft permit, all of which were incorporated.

EPA Review:

On July 31, 2015, TCEQ received a letter from EPA stating "the EPA has no objection to the issuance of the draft permit." No changes were made to the permit as a result of the EPA review.

Public Comment:

One public comment was received from the TPWD. The commenter noted there was a small typographical error on the Notice of Level 1 Authorization; it contained a reference to Part III, Section B.7, which should instead cite Part II, Section B.7.

Potential controversial concerns and legislative interest:

Legislative interest or public concerns are not anticipated.

Effect on the:

- A) Regulated community:** The regulated community will have an additional reporting requirement which will slightly increase the cost of compliance with the permit. Revising the permit to allow beneficial re-use will provide the regulated community with the option to use the wastewater rather than discharging it into water in the state which can result in water conservation by reducing the use of freshwater for activities such as irrigation, dust suppression, and fire protection
- B) Public:** The public will benefit from allowing the beneficial re-use of wastewater because it can result in water conservation by reducing the use of freshwater for activities such as irrigation, dust suppression, and fire protection.
- C) Agency programs:** The additional reporting requirement will benefit the agency by providing additional data about aquaculture discharges that can be used in future permit actions to evaluate and possibly adjust permit effluent limitations for oxygen demanding constituents.

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Key Dates in the Proposed General Permit Schedule:

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

End of Public Comment Period: November 16, 2015

Anticipated Adoption Date: March 3, 2016

Statutory authority:

- A. Texas Water Code (TWC), §26.121, which makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission;
- B. 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
- C. TWC, §26.040, which provides the commission with authority to amend rules to authorize waste discharges by general permit.

Agency Contacts:

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Alicia Ramirez, Staff Attorney, (512) 239-0133

Sherry Davis, Texas Register Coordinator, (512) 239-2141

Attachments:

Proposed Permit

Fact Sheet

Response to Comment

cc: Chief Clerk, 7 copies

Texas Commission on Environmental Quality

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



GENERAL PERMIT TO DISPOSE OF WASTEWATER

under provisions of Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

This permit supersedes and replaces
TPDES General Permit No. TXG130000, issued on March 15, 2011.

Aquaculture facilities and certain related activities located in the State of Texas, may discharge into or adjacent to water in the state, including exceptional, high, intermediate, limited, or minimal aquatic life use receiving waters as designated in the Texas Surface Water Quality Standards,

only according to the effluent limitations, monitoring requirements and other conditions set forth in this general permit, as well as in the rules of the Texas Commission on Environmental Quality (TCEQ or the commission), the laws of the State of Texas, and other orders of the commission. The issuance of this general permit does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. This includes 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 to use the discharge route.

This general permit and the authorization contained herein shall expire at midnight on April 18, 2021.

EFFECTIVE DATE: April 18, 2016

ISSUED DATE:

For the Commission

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Part I. Definitions

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

Aquaculture facility - An establishment engaged in the propagation or rearing of aquatic species using ponds, lakes, fabricated tanks, raceways, cages or other enclosures placed within public waters, or other similar structures. Multiple ponds that are individually owned, managed, or leased may be considered a single aquaculture facility if they are located within a contiguous tract of land, utilize a common water source, or utilize a common discharge route. For the purposes of this general permit, an aquaculture facility does not include: public and private reservoirs constructed and utilized primarily for water supply, flood control, domestic purposes, livestock watering, recreation, or similar uses.

Aquatic animal production facility - An aquaculture facility that meets the criteria for Level II facility established in this general permit, and that does not meet or exceed the criteria in 40 Code of Federal Regulations (CFR) Part 122, Appendix C.

Aquatic species - Fish, crustaceans, mollusks, or any other organisms, excluding aquatic plants and algae, living in either fresh or marine waters.

Best management practices (BMP) - Schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to water in the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, or the abatement of nuisance odors and conditions. BMPs are those measures that are reasonable and necessary to achieve a performance standard that protects and maintains air and water quality standards as well as existing and potential uses of groundwater.

Closed ponds - Ponds, lakes, or tanks without a mechanism to manipulate water levels, except for emergency spillways and other similar non-mechanical structures, or those ponds that are operated such that drawdowns are not allowed. If the use of groundwater wells or the diversion of surface water results in dry-weather discharges, such ponds are not defined as closed ponds.

Coastal zone - That area along the Texas coast of the Gulf of Mexico as depicted in this definition and also as depicted in Figure 1 from 31 Texas Administrative Code (TAC) Part 16, Chapter 503. The boundary includes areas within the following Texas counties: Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Refugio, Calhoun, Victoria, Jackson, Matagorda, Brazoria, Galveston, Harris, Chambers, Jefferson, and Orange.

- a. The inland boundary. The inland boundary encompasses the following areas: The boundary begins at the International Toll Bridge in Brownsville, thence northward along United States (U.S.) Highway 77 to the junction of Paredes Lines Road (Farm-to-Market (FM) Road 1847) in Brownsville, thence northward along FM Road 1847 to the junction of FM Road 106 east of Rio Hondo, thence westward along FM Road 106 to the junction of FM Road 508 in Rio Hondo, thence northward along FM Road 508 to the junction of FM Road 1420, thence

northward along FM Road 1420 to the junction of State Highway 186 east of Raymondville, thence westward along State Highway 186 to the junction of U.S. Highway 77 near Raymondville, thence northward along U.S. Highway 77 to the junction of FM Road 774 in Refugio, thence eastward along FM Road 774 to the junction of State Highway 35 south of Tivoli, thence northward along State Highway 35 to the junction of State Highway 185 between Bloomington and Seadrift, thence northwestward along State Highway 185 to the junction of FM Road 616 in Bloomington, thence northeastward along FM Road 616 to the junction of State Highway 35 east of Blessing, thence southward along the State Highway 35 to the junction of FM Road 521 north of Palacios, thence northeastward along FM Road 521 to the junction of State Highway 36 south of Brazoria, thence northward along State Highway 36 to the junction of State Highway 332 in Brazoria, thence eastward along State Highway 332 to the junction of FM Road 2004 in Lake Jackson, thence northeastward along FM Road 2004 to the junction of Interstate Highway 45 between Dickinson and La Marque, thence northwestward along Interstate Highway 45 to the junction of Interstate Highway 610 in Houston, thence east and northward along Interstate Highway 610 to the junction of Interstate Highway 10 in Houston, thence eastward along Interstate Highway 10 to the Louisiana State line.

- b. Tidal portion of the boundary. The boundary runs at a distance of 100 yards inland from the mean high tide line along each of the following tidal river and stream segments from the points where they intersect the roadway boundary described below:
 - i. on the Arroyo Colorado, to a point 100 meters (110 yards) downstream of Cemetery Road south of Port Harlingen in Cameron County;
 - ii. on the Nueces River, to Calallen Dam 1.7 kilometers (1.1 miles) upstream of U.S. Highway 77 in Nueces/San Patricio County;
 - iii. on the Guadalupe River, to the Guadalupe-Blanco River Authority Salt Water Barrier 0.7 kilometers (0.4 mile) downstream of the confluence of the San Antonio River in Calhoun and Refugio Counties;
 - iv. on the Lavaca River, to a point 8.6 kilometers (5.3 miles) downstream of U.S. Highway 59 in Jackson County;
 - v. on the Navidad River, to Palmetto Bend Dam in Jackson County
 - vi. on Tres Palacios Creek, to a point 0.6 kilometers (1.0 mile) upstream of the confluence of Wilson Creek in Matagorda County;
 - vii. on the Colorado River, to a point 2.1 kilometers (1.3 miles) downstream of the Missouri-Pacific Railroad in Matagorda County;
 - viii. on the San Bernard River, to a point 3.2 kilometers (2.0 miles) upstream of State Highway 35 in Brazoria County;
 - ix. on Chocolate Bayou, to a point 4.2 kilometers (2.6 miles) downstream of State Highway 35 in Brazoria County;

- x. on Clear Creek, to a point 100 meters (110 yards) upstream of FM Road 528 in Galveston/Harris County;
 - xi. on Buffalo Bayou, to a point 400 meters (440 yards) upstream of Shepherd Drive in Harris County;
 - xii. on the San Jacinto River, to Lake Houston Dam in Harris County;
 - xiii. on Cedar Bayou, to a point 2.2 kilometers (1.4 miles) upstream of Interstate Highway 10 in Chambers/Harris County;
 - xiv. on the Trinity River, to the border between Chambers and Liberty Counties;
 - xv. on the Neches River, to a point 11.3 kilometers (7.0 miles) upstream of Interstate Highway 10 in Orange County; and
 - xvi. on the Sabine River, to Morgan Bluff in Orange County.
- c. Wetlands portion of boundary. Except for the part of the boundary adjacent to the Trinity and Neches rivers, the boundary includes wetlands lying within one mile inland of the mean high tide lines of the tidal river and stream segments identified below:
- i. adjacent to the Trinity River, the boundary includes wetlands within the area located between the mean high tide line on the western shoreline of the river and FM Road 565 and FM Road 1409, and wetlands within the area located between the mean high tide line on the eastern shoreline of that portion of the river and FM Road 563.
 - ii. adjacent to the Neches River, the boundary includes wetlands within one mile of the mean high tide line on the western shoreline of the river, and wetlands within the area located between the mean high tide line on the eastern shoreline of that portion of the river and FM Road 105.
- d. The boundary with the State of Louisiana. The boundary with the State of Louisiana begins in Orange County at Morgans Bluff, the northernmost extent of tidal influence, along the adjudicated boundary between the State of Texas and the State of Louisiana, as established by the United States Supreme Court in *Texas v. Louisiana*, 410 U.S. 702 (1973); thence it continues in a southerly direction along the adjudicated boundary out into the Gulf of Mexico until it intersects the seaward boundary.
- e. The seaward boundary. The seaward boundary is that line marking the seaward limit of Texas title and ownership under the Submerged Lands Act (43 United States Code (U.S.C.) § 1301 et. Seq.), as recognized by the United States Supreme Court in *United States v. Louisiana et al.*, 364 U.S. 502 (1960).
- f. The boundary with the Republic of Mexico. The boundary with the Republic of Mexico begins at a point three marine leagues into the Gulf of Mexico where the line marking the seaward limit of Texas title and ownership under the Submerged Lands Act (43 U.S.C. §§ 1301 et seq) intersects the international boundary between the United States and the Republic of Mexico, as established pursuant to the Treaty of Guadalupe-Hidalgo (February 2, 1848) between the United States

and the Republic of Mexico; thence it continues in a westerly direction along the international border with the Republic of Mexico until it meets the International Toll Bridge in Brownsville.

- g. The excluded federal lands. The excluded federal lands are those lands owned, leased, held in trust by, or whose use is otherwise by law subject solely to the discretion of the federal government, its officers or agents.

Cold water aquatic species - Fish in the family *Salmonidae* (trout and salmon).

Concentrated aquatic animal production facility - An aquaculture facility that meets the criteria outlined in 40 CFR Part 122, Appendix C and meets the criteria of Level III and Level IV facilities established in this general permit.

Commercial aquaculture facility - An aquaculture facility designed primarily for the production of cultured species for the purposes of sale, barter, or exchange.

Daily average flow - The arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

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

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

Discharge - Deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Domestic sewage - Waterborne human waste and waste from domestic activities such as washing, bathing, and food preparation.

Edwards Aquifer - As defined in 30 TAC § 213.3 (relating to the Edwards Aquifer), that portion of an arcuate belt of porous, water-bearing, predominantly carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone trending from west to east to northeast in Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson Counties; and composed of the Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, Edwards Formation, and Georgetown Formation. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

Edwards Aquifer Recharge Zone - Generally, that area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other

geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer. The recharge zone is identified as that area designated as such on official maps located in the Texas Commission of Environmental Quality (TCEQ) offices and the appropriate underground water conservation district(s).

Extralabel drug - A drug approved under the Federal Food, Drug, and Cosmetic Act that is not used in accordance with the approved label directions. This includes, but is not limited to, use in species not listed in the labeling; use for indications (disease or other conditions) not listed in the labeling; use at dosage levels, frequencies, or routes of administration other than those stated in the labeling; and deviation from the labeled withdrawal time based on these different uses.

Flow-through system - A system designed to provide a continuous flow of water through chambers used to produce aquatic species into water in the state.

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

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

Inactive facility - A facility that is not yet operational or where operations have been suspended.

Investigational new animal drug (INAD) - a drug for which there is a valid exemption in effect under Section 512(j) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360b(j), to conduct experiments.

Irrigation - The spraying or spreading of wastewater onto the land surface or the incorporation of wastewater into the soil to either condition the soil or fertilize vegetation grown in the soil.

mg/L - Abbreviation for milligrams per liter.

Municipal separate storm sewer system (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Clean Water Act (CWA) § 208 that discharges to surface water in the state; (ii) that is designed or used for collecting or conveying stormwater; (iii) that is not a combined sewer; and (iv) that is not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.2.

Notice of change (NOC) - A written submission to the executive director from a permittee authorized under a general permit, providing information on changes to information previously provided to the commission, or any changes with respect to the nature or operations of the regulated entity or the characteristics of the discharge.

Notice of intent (NOI) - A written submission to the executive director from an applicant requesting coverage under the terms of a general permit.

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

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

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

Perennial stream - For the purposes of this general permit, a perennial stream is a stream that exhibits measurable or observed flow for the entire year during most years (with the exception of unusually dry years), or one that provides a 0.1 cubic feet per second (cfs) or greater seven day, two year low flow (7Q2) (where flow records are available).

Pond bottom sludge - Accumulations of silt, soils, and other matter in the bottom of ponds.

Production - Weight of aquatic species as measured following harvest and prior to processing.

Production pond - Earthen ponds, raceways, fabricated tanks, or similar structures utilized in conjunction with the propagation or rearing of aquatic species.

Publicly owned treatment works (POTW) - A treatment works owned and operated by a state or municipality that includes any device or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment. This term also means the municipality that has jurisdiction over indirect discharges to and discharges from such a treatment works.

Recirculating system - A system that filters and re-uses water in which the aquatic species are produced.

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

Shrimp research facilities - Facilities whose primary purpose is inquiry or experimentation to develop scientific research of shrimp aquaculture methods, disease control, waste control, wastewater treatment technology, and similar subjects. For the purposes of this permit, to be considered as a shrimp research facility, the annual revenues from the sale of any shrimp resulting from the research activities must not exceed the cost of conducting those research activities.

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

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

Warm water aquatic species - All aquatic species except those in the family *Salmonidae* (trout and salmon).

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

Waste management unit - Any structure used for containment, detainment, or treatment of wastewater; including canals utilized to transport wastewater from the production pond to a settling pond or discharge point; not including production ponds used for the grow-out of aquatic species.

Wastewater - For the purposes of this general permit, wastewater is water that is a result of the following activities:

- a. Propagation, rearing, or transportation of aquatic species.
- b. Washdown, cleaning, and flushing of fabricated tanks, raceways, ponds, or other containment structures, or process equipment.
- c. Washing, treating, or any other direct contact with aquatic species.

25-Year, 24-Hour rainfall event - The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent information or state rainfall information.

Part II. Permit Applicability and Coverage

Section A. Discharges Covered

This general permit authorizes discharges into or adjacent to water in the state by certain concentrated aquatic animal production facilities, aquatic animal production facilities, and other activities related to the propagation or rearing of aquatic species through the use of ponds, lakes, fabricated tanks and raceways, or other similar structures.

Categories of Authorized Discharges

1. Level I Facility

Operations that meet the following descriptions and criteria:

- a. retail bait dealers;
- b. discharges resulting from the production of crawfish in conjunction with rice farming;
- c. ponds used as pay lakes;

- d. facilities that exclusively utilize closed ponds;
- e. public or commercial aquariums;
- f. aquarium suppliers;
- g. live fish hauling tanks;
- h. any aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight equal to or less than 10,000 pounds per year; or
- i. facilities that temporarily hold and do not feed aquatic species.

2. Level II Facility

Aquatic animal production facilities that meet one of the following criteria (a., b., or c.) and that do not produce shrimp in the coastal zone:

- a. Produces cold water aquatic species in ponds, raceways, or other similar structures that:
 - i. discharge into surface water in the state less than 30 days per year; or
 - ii. produce less than 20,000 pounds harvest-weight of aquatic species per year and feed less than 5,000 pounds of food during the calendar month of maximum feeding.
- b. Produces warm water aquatic species in ponds, raceways, or other similar structures that:
 - i. discharge into surface water in the state less than 30 days per year; or
 - ii. produce less than 100,000 pounds harvest-weight of aquatic species per year.
- c. Disposes of wastewater by irrigation or evaporation and does not discharge into surface water in the state.

3. Level III Facility

Concentrated aquatic animal production facilities that meet or exceed the thresholds described below in either 3(a) or (b) or a shrimp research facility located inside the coastal zone that meets the criteria below in 3(c):

- a. Produces cold water aquatic species in ponds, raceways, or other similar structures that discharge into surface water in the state at least 30 days per year; and either:
 - i. produce more than 20,000 pounds harvest-weight of aquatic species per year; or
 - ii. feed 5,000 pounds or more of food during the calendar month of maximum feeding.
- b. Produces warm water aquatic species in ponds, raceways, or other similar structures that:
 - i. discharge into surface water in the state at least 30 days per year; and

- ii. produce more than 100,000 pounds harvest-weight of aquatic species per year.
- c. Shrimp research facility within the coastal zone that:
 - i. discharges into surface water in the state less than 60 days per year;
 - ii. discharges at a daily maximum flow rate of less than 5 million gallons per day; and
 - iii. discharges at a total monthly flow volume of less than 12.5 million gallons.
- 4. Level IV Facility

Concentrated aquatic animal production facilities that meet the thresholds of Level III and produce 100,000 pounds or more of aquatic species per year in a flow-through system or recirculating system.

Section B. Limitations on Coverage

1. The following facilities are not eligible for authorization under this general permit and must apply for coverage under an individual TPDES permit:
 - a. Any commercial aquaculture facility that produces shrimp species in ponds, raceways, or similar structures within the coastal zone that discharge into surface water in the state.
 - b. Any commercial aquaculture facility that produces shrimp species, that is located within the coastal zone, that conducts collaborative research with a shrimp research facility, and that discharges into surface water in the state.
 - c. Any aquaculture facility that discharges to freshwater receiving waters with a total dissolved solids difference between the discharge and the receiving water greater than 500 mg/L.
 - d. Any aquaculture facility that discharges to an estuarine or marine receiving water with a salinity difference between the discharge and the receiving water greater than 2 parts per thousand.
 - e. Any aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight greater than 10,000 pounds.
2. Discharges are not authorized by this general permit where prohibited by:
 - a. 30 TAC Chapter 311 (relating to Watershed Protection);
 - b. 30 TAC Chapter 213 (relating to the Edwards Aquifer);
 - c. 31 TAC Chapter 57, Subchapter C (relating to Introduction of Fish, Shellfish and Aquatic Plants); or
 - d. any other applicable rules or laws.
3. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30

TAC Chapter 305 (relating to Consolidated Permits) and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed in the most current version of the Texas Integrated Report of Surface Water Quality and in accordance with CWA § 303(d). Constituents of concern are those pollutants for which a water body is listed as impaired.

4. Discharges of the constituent(s) of concern to impaired water bodies when there is a TCEQ approved total maximum daily load (TMDL) implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The executive director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual permit or other applicable general permit authorization prior to discharging.
5. Discharges associated with the processing of aquatic species by packing as fresh or frozen product, canning, smoking, salting, drying or otherwise curing, or rendering for use as human or animal food are not authorized by this general permit.
6. The discharge of domestic sewage into or adjacent to water in the state is not authorized by this general permit. All domestic sewage shall be either discharged pursuant to an individual permit issued by the TCEQ; routed to an authorized and adequately designed sewage treatment facility or Publicly Owned Treatment Works (POTW); routed to on-site sewage facilities (septic systems) permitted by local authorities; or transported to an approved off-site disposal facility.
7. Facilities that dispose of wastewater by any of the following practices are not required to obtain coverage under this general permit:
 - a. recycling with no resulting discharge into or adjacent to water in the state;
 - b. pumping and hauling to an authorized disposal facility;
 - c. discharge to a POTW;
 - d. underground injection in accordance with 30 TAC Chapter 331 (relating to Underground Injection Control); or
 - e. discharge to above ground storage tanks with no resulting discharge into or adjacent to water in the state.
8. The executive director will deny an application for authorization under this general permit and may require that the applicant apply for an individual permit, if the executive director determines that the discharge will not maintain existing uses of receiving waters. Additionally, the executive director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. The executive director shall deny or suspend a facility's authorization for discharge under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC § 60.3, *Use of Compliance History*. An applicant who owns or operates a facility that is classified as an "unsatisfactory performer" is entitled to a hearing before the

commission prior to having its authorization denied or suspended, in accordance with TWC § 26.040(h). Denial of authorization for discharge under this general permit will be done according to commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*.

9. The executive director may deny a Notice of Intent (NOI) to discharge under this general permit based on the potential or actual adverse impact. A determination of potential adverse impact may arise from consideration of such factors as proposed flow rate, production rate, or nature of the receiving stream. The executive director shall also consider any sensitive aquatic habitat in the coastal zone identified in the general guidelines developed by the Texas Parks and Wildlife Department (TPWD). In making a determination of potential adverse impacts, the executive director may also consider other factors, as necessary.
10. Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.

Section C. Application for Coverage

1. Level I facilities are not required to submit an NOI for authorization under this general permit. Qualifying operations should complete Attachment 1 and use this notice as necessary to demonstrate authorization under this general permit (e.g. when applying to the Texas Department of Agriculture (TDA) or the TPWD for aquaculture-related licenses and/or permits). Level I facilities must comply with all applicable provisions of the general permit, including those in Part III, Sections B, E, F, and G and Parts IV, V, and VI. However, it is not necessary to submit Attachment 1 to TCEQ.
2. Level II, Level III, and Level IV facilities must submit a completed NOI on a form approved by the executive director. The NOI shall, at a minimum, include: the legal name and address of the owner and operator, the site name and address, specific description of its location, type of facility or discharges, and the receiving waters. Permittees authorized under the previous general permit are required to submit a new NOI within 90 days after the effective date of this general permit to continue authorization. Failure to submit a new NOI by the deadline will result in expiration of the existing authorization to operate under the previous general permit.
3. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. Following review of the NOI, the executive director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied. Authorization under the terms and conditions of this general permit begins when the applicant is issued authorization of coverage.

4. For discharges located in areas regulated by 30 TAC Chapter 213, *Edwards Aquifer*, an authorization to discharge under this general permit is separate from the requirements of that chapter. Discharge may not commence for sites regulated under 30 TAC Chapter 213 until all applicable requirements in that chapter are met. For discharges located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI to the appropriate TCEQ regional offices shown below.

Counties: Comal, Bexar, Medina, and Kinney
Contact: TCEQ Water Program Manager
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 78233-4480
210-490-3096

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

5. Applicants seeking authorization to discharge to a municipal separate storm sewer system (MS4) must provide a copy of the NOI or electronic equivalent to the operator of the system at the same time an NOI is submitted to TCEQ.
6. Authorization under this general permit is not transferable. If either the owner or operator of the regulated entity changes, both the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. The NOT and NOI must be submitted no later than 10 days before the change. 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. Permittees discharging to a MS4 must submit a copy of the NOT to the operator of the system at the same time the NOT is submitted to TCEQ.
7. If the owner or operator becomes aware that it failed to submit any relevant facts, submitted incorrect information, or if relevant information provided in the NOI changes (for example: address, phone number, authorization level, discharge days, production weight, aquaculture species produced), the correct information must be provided to the executive director in a Notice of Change (NOC) within 14 days after discovery. Permittees discharging to an MS4 must submit a copy of any NOC to the operator of the system at the same time the NOC is submitted to TCEQ.
8. Operators of aquaculture facilities that intend or plan to expand facilities, production, number of discharge days, or other factors that would change the facility level as described in Part II.A of this permit, must comply with one of the following prior to initiating these changes:
 - a. Level I facilities must submit an NOI and receive authorization;

- b. Level II, Level III, and Level IV facilities must submit an NOC; or
- c. obtain authorization under a separate individual or general permit.

Section D. Termination of Coverage

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 facility changes; the discharge becomes authorized under an individual permit; the use of the property changes and is no longer subject to regulation under this general permit; or the discharge becomes unnecessary, is delayed, or is completed. Authorization terminates on the day that an NOT is postmarked for delivery to the TCEQ. If electronic submission of an NOT is provided, and unless otherwise notified by the executive director, termination begins immediately following confirmation of receipt of the electronic NOT form by the TCEQ. Compliance with the conditions and requirements of this permit is required until an NOT is submitted. Permittees discharging to an MS4 must submit a copy of the NOT or electronic equivalent to the operator of the system at the same time the NOT is submitted to TCEQ.

Section E. Authorization Under a TPDES or TLAP Individual Permit

1. Discharges that are eligible for authorization under this general permit may alternatively be authorized under a TPDES permit or TLAP.
2. When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall submit an NOT to the executive director. The authorization under this general permit will be terminated on the day that the NOT is postmarked for delivery to the TCEQ.
3. Discharges from facilities that are currently authorized by an individual permit, and discharges from facilities that are currently authorized under another general permit, may only be authorized under this TPDES general permit if the following conditions are met:
 - a. the discharges meet the applicability and eligibility requirements for coverage under this general permit;
 - b. the current individual permit does not contain numeric effluent limitations that are more stringent than the numeric effluent limitations in this general permit or the current individual permit does not contain numeric effluent limitations that are not included in this general permit, unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated;
 - c. the executive director has not determined that continued coverage under an individual permit is required based on consideration of a TMDL, TMDL Implementation Plan, anti-backsliding requirements, a history of substantive noncompliance, or other site-specific considerations;
 - d. a previous application or permit for the discharge was not denied, terminated, or revoked by the executive director as a result of enforcement or water quality related concerns. The executive director may provide a waiver to this

provision based on new circumstances at the facility, or if there is a new facility owner or operator; and

- e. the applicant requests cancellation of the existing individual permit within 30 days after notice that authorization under this general permit is effective.

Section F. Permit Expiration

1. This general permit is effective for a term of five years from the effective date. Authorizations for discharge that are under the provisions of this general permit may be issued until the expiration date of the general permit. This general permit may be amended, revoked, cancelled, or renewed by the commission after notice and comment as provided by 30 TAC §§ 205.3 and 205.5.
2. If the commission proposes to reissue this general permit before the expiration date, the general permit shall remain in effect after the expiration date for those existing discharges covered by the general permit in accordance with 30 TAC Chapter 205. The general permit shall remain in effect for these discharges until the date on which the commission takes final action on the proposal to reissue this general permit. No new NOIs will be processed by the executive director and no new authorizations will be issued under this general permit after the expiration date of the 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, the permittee shall submit an NOI according to the requirements of the new general permit, obtain a TPDES individual permit, or obtain a TLAP for those discharges.
4. If the commission does not propose to reissue this general permit within 90 days before the expiration date, permittees must apply for authorization under an individual permit or an alternative general permit, if available. If the application for an individual permit or alternative general permit is submitted before the general permit expiration date, authorization under this expiring general permit remains in effect until the issuance or denial of an individual permit or authorization under an alternative general permit.

Part III. Permit Requirements

Section A. Effluent Limitations

This section applies to Level II facilities that discharge into water in the state, and all Level III and Level IV facilities.

1. Numeric effluent limitations applicable to all Level II facilities that discharge into water in the state, and all Level III and Level IV facilities:

Parameter	Daily Average Limitation	Daily Maximum Limitations	Sample Type	Monitoring Frequency¹
Flow (Million Gallons per Day)	Report	Report	Estimate or Meter	1/day

Parameter	Daily Average Limitation	Daily Maximum Limitations	Sample Type	Monitoring Frequency¹
Total Suspended Solids	N/A	90 mg/L	Grab	1/month
Inorganic Suspended Solids	N/A	Report (mg/L)	Grab	1/month
Total Residual Chlorine	N/A	0.1 mg/L	Grab	1/day ²
pH (Standard Units)	6.0 minimum	9.0 maximum	Grab	1/week

¹ Monitoring frequency for Level II authorizations shall be once every six months with the exception of flow monitoring which shall be conducted daily.

² Monitoring for total residual chlorine is required only when the effluent being discharged is chlorinated.

- Numeric effluent limitations applicable to all Level II, Level III, and Level IV facilities discharging to perennial streams with a head water flow greater than 2.5 cubic feet per second (cfs) and to all other water bodies:

Parameter	Daily Average Limitations	Daily Maximum Limitations	Sample Type	Monitoring Frequency¹
Dissolved Oxygen	5.0 mg/L minimum	N/A	Composite ²	1/week
Carbonaceous Biochemical Oxygen Demand (5-day)	N/A	250 lbs/day and Report mg/L	Grab	1/month
Ammonia Nitrogen	N/A	2.0 mg/L	Grab	1/month

¹ Monitoring frequency for Level II authorizations shall be once every six months.

² Four grab samples shall be collected and analyzed individually. The results of those analyses shall be averaged for reporting purposes. The first sample shall be taken within 30 minutes of initial discharge. Subsequent samples shall be taken at intervals of no less than two hours and no more than four hours apart with a minimum of four samples or until the discharge is discontinued. At least one of the four samples shall be collected between 6:00 a.m. and 9:00 a.m. if the discharge occurs within this time period.

3. Numeric effluent limitations applicable to all Level II, Level III, and Level IV facilities discharging to perennial streams with a head water flow less than 2.5 cfs:

Parameter	Daily Average Limitations	Daily Maximum Limitations	Sample Type	Monitoring Frequency¹
Dissolved Oxygen	6.0 mg/L minimum	N/A	Composite ²	1/week
Carbonaceous Biochemical Oxygen Demand (5-day)	N/A	64 lbs/day and Report mg/L	Grab	1/month
Ammonia Nitrogen	N/A	2.0 mg/L	Grab	1/month

¹ Monitoring frequency for Level II authorizations shall be once every six months.

² Four grab samples shall be collected and analyzed individually. The results of those analyses shall be averaged for reporting purposes. The first sample shall be taken within 30 minutes of initial discharge. Subsequent samples shall be taken at intervals of no less than two hours and no more than four hours apart with a minimum of four samples or until the discharge is discontinued. At least one of the four samples shall be collected between 6:00 a.m. and 9:00 a.m. if the discharge occurs within this time period.

Section B. General Requirements

This section applies to all Level I, Level II, Level III, and Level IV facilities.

1. Any new facility that is required to obtain authorization under this general permit or an individual permit may not commence construction of any waste management unit without first receiving either authorization in accordance with this general permit, an individual permit, or authorization for the construction.
2. Any permittee that is engaged in the propagation or rearing of shrimp that exhibit one or more manifestations of disease, as defined in 31 TAC Chapter 57, Subchapter A or 31 TAC Chapter 69, Subchapter F shall immediately report the observations to the TCEQ's regional office and Wastewater Permitting Section (MC-148), and to the TPWD, and shall comply with all the requirements of 31 TAC Chapters 57 or 69 as well as other actions deemed appropriate by the TPWD. The TPWD shall be notified immediately of the disease diagnosis. Any actions that are deemed as necessary by the permittee and approved by the TPWD to prevent transmission of the disease to aquatic life endemic to water in the state shall be implemented as soon as possible. The executive director may additionally require cessation of the discharge of effluent from the facility as necessary to protect aquatic life in the receiving stream from potential adverse impacts.

3. Permittees that are in possession of fish or shellfish shall notify the TCEQ regional office and Wastewater Permitting Section (MC-148) immediately upon a finding that the facility meets the quarantine conditions imposed by TPWD regulations. There shall be no discharge during the quarantine period, except in accordance with an Emergency Plan approved by TPWD and the executive director. Following the lifting of the quarantine condition by TPWD, the executive director shall lift the prohibition on discharge to allow for implementation of the facility's Emergency Plan, in accordance with a permit from the TPWD.
4. In the event that a facility appears to be in imminent danger of overflow, flooding, or similar conditions that could either result in the release of exotic species that are regulated by the TPWD or that would result in the violation of a quarantine condition imposed by the executive director or TPWD, the permittee may discharge effluent in excess of the permitted flow rates, but only to the extent necessary to comply with an Emergency Plan that is approved by the TPWD.
 - a. Effluent limitations, discharge flow limitations, and other effluent monitoring requirements of this permit shall be set aside during this activity.
 - b. The permittee shall notify the appropriate TCEQ regional office at least 48 hours prior to initiating any action under an Emergency Plan in response to an emergency event whenever possible, such as landfall of a hurricane, and shall notify the regional office as soon as practicable following initiation of the Emergency Plan.
 - c. The permittee shall control discharges relating to the initiation of the Emergency Plan in the most environmentally sound manner that is practicable. Within 30 days following initiation of the Emergency Plan, the permittee shall submit a written report to the appropriate TCEQ regional office that includes the following information;
 - i. the cause for initiation of the Emergency Plan;
 - ii. the actions taken to avoid or negate impacts of the discharge to the receiving stream;
 - iii. the volumes of wastewater discharged;
 - iv. the dates that discharges occurred; and
 - v. a general summary of receiving stream conditions at the time of the discharge.
 - d. It is the permittee's responsibility to demonstrate that the discharges were necessary and that conditions required initiation of the Emergency Plan.
5. Facilities authorized under this general permit shall be operated in such a manner as to prevent the creation of a nuisance condition of air pollution as mandated by Texas Health and Safety Code (THSC) Chapters 341 and 382.

6. All production ponds and waste management units, whether constructed of earthen or other impervious material, shall be designed, constructed, and operated so as to prevent groundwater contamination.
7. Soils used in the construction of a pond's embankment walls shall be free of foreign material such as brush, trees, and large rocks. All soil embankment walls shall be protected by a vegetative cover, to the extent possible, or other stabilizing material other than trees and shrubs to prevent erosion. Erosion stops and water seals shall be installed on all piping that penetrates the embankments.
8. Waste management units must be located a minimum horizontal distance of:
 - a. 150 feet from private water wells; and
 - b. 500 feet from public water supply wells.
9. Earthen levees and dikes shall be protected by a vegetative cover, other than trees and shrubs, or other stabilizing material to the extent possible to prevent erosion. Vegetation, when utilized, shall be maintained at all times through mowing, watering, or other suitable maintenance practices.
10. A site map must be developed that depicts the following:
 - a. the site boundaries;
 - b. each production pond;
 - c. each waste management unit;
 - d. the location of each outfall and sampling point if different from the outfall location;
 - e. the location of all receiving waters; and
 - f. the location of irrigation areas, if applicable.
11. Permittees must coordinate with, and abide by the rules of, the following State agencies as applicable.

Texas Department of Agriculture
P.O. Box 12847
Austin, TX 78711
512-463-7476
800-TELL-TDA (835-5832)
<https://texasagriculture.gov>

Texas Parks and Wildlife Department
4200 Smith School Road
Austin, TX 78744
512-389-4800
800-792-1112
<https://tpwd.texas.gov>

Section C. Specific Requirements for Certain Level II Facilities

This section applies to Level II facilities authorized under Part II. Section A.2.(c) that do not discharge into water in the state.

1. There shall be no discharge of wastewater into water in the state. The facility shall be designed so that all wastewater is either utilized by irrigation or disposed of by evaporation.
2. The facility may use wastewater for other beneficial re-uses, however the facility must be designed in accordance with Part III.C.1. of this permit.
3. A facility that disposes of wastewater by irrigation shall comply with all irrigation requirements in Part III. Section F. of this permit and shall design, operate, and maintain irrigation ponds, if used, as follows:
 - a. The irrigation holding ponds shall provide for adequate storage to prevent overflow. The storage requirements of the irrigation holding ponds shall be based on a design rainfall year with return frequency of at least 25 years (the expected 25 year - one year rainfall, alternately the highest annual rainfall during the last 25 years of record may be used) and a normal monthly distribution, the application rate and cycle, the effluent available on a monthly basis, and evaporation losses in accordance with 30 TAC § 309.20.
4. A facility that disposes of wastewater by evaporation shall comply with the following:
 - a. Evaporation ponds shall be sized to prohibit overflow. Evaporation ponds sizing shall be based upon whichever of the following two evaluations results in a larger capacity pond:
 - i. Critical Conditions. The year with the lowest net evaporation (for a minimum period of record of 25 years) or other appropriate data (e.g., highest precipitation and lowest pan/lake evaporation). The calculation should include the volume of effluent routed to the evaporation pond on a monthly basis for an entire year.
 - ii. Average Conditions. The average net evaporation (for the entire period of record) or other appropriate data (e.g., average precipitation and average pan/lake evaporation). When two consecutive average years are reviewed, there should be no accumulation of water in the evaporation system. The calculation should include the volume of effluent routed to the evaporation pond on a monthly basis for an entire year.
 - b. Evaporation ponds shall be operated to maintain a minimum freeboard of two feet at all times.

Section D. Specific Requirements for Level IV Facilities

In addition to the General Requirements described in Part III Section B of this general permit, Level IV facilities must meet the following requirements:

1. Failure in, or damage to, the structure of a production pond resulting in an unanticipated material discharge of pollutants into or adjacent to waters in the state shall be reported orally, by electronic mail, or by electronic facsimile transmission to the appropriate TCEQ regional office within 24 hours of the permittee becoming aware of the discharge and shall include a description of the cause of the failure or damage and an identification of materials that were released to the environment as a result of the failure. A written report shall be provided by the permittee to the appropriate TCEQ regional office and the TCEQ's Industrial Permits Team within five working days of the discharge. The written report shall contain:
 - a. a cause of the failure or damage to the structure;
 - b. the potential danger to human health or safety, or the environment;
 - c. the period of discharge, including exact dates and times;
 - d. an identification of the material released;
 - e. the quantity of the material released;
 - f. if the failure has not been corrected, the anticipated time it is expected to continue; and
 - g. the steps taken or planned to reduce, eliminate, and prevent recurrence of the failure.
2. In the event a spill of drugs, pesticides, or feed occurs that results in a discharge to water in the state, the permittee must provide an oral report of the spill to the appropriate TCEQ regional office within 24 hours of its occurrence and a written report within 7 days to the appropriate TCEQ regional office and the TCEQ's Industrial Permits identifying the type and quantity of the material spilled.
3. The permittee must develop and maintain a Best Management Practices (BMP) plan. The permittee must certify in writing to the TCEQ's Industrial Permits Team (MC-148) that a BMP plan has been developed at the time of NOI submittal. The plan must be kept on site for a minimum of five years from the date of the record or sample, measurement, report, or certification and be made available for inspection by the executive director. The BMP plan must describe how the permittee will achieve the following:
 - a. Solids Control. The permittee must:
 - i. employ efficient feed management and feeding strategies that limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth in order to minimize potential discharges of uneaten feed and waste products into or adjacent to water in the state;
 - ii. identify and implement procedures for routine cleaning of production ponds and off-line waste management units to minimize the discharge of accumulated pond bottom sludge; and

- iii. identify and implement procedures to minimize any discharge of accumulated pond bottom sludge during the inventorying, grading, and harvesting of aquatic species from the production ponds.
- b. Materials Storage. The permittee must:
 - i. ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills that may result in the discharge of drugs, pesticides, or feed into or adjacent to water in the state; and
 - ii. identify and implement procedures for properly containing, cleaning, and disposing of any spilled material.
- c. Structural maintenance. The permittee must:
 - i. inspect production ponds and waste treatment units on a routine basis in order to identify and promptly repair any damage; and
 - ii. conduct regular maintenance of the production ponds and waste treatment units in order to ensure that they are functioning properly.
- d. Recordkeeping. The permittee must maintain records that document:
 - i. the feed amounts and estimates of the numbers and weight of aquatic species for each production pond in order to calculate representative feed conversion ratios; and
 - ii. the frequency of cleaning, inspections, maintenance, and repairs of production ponds and waste management units.
- e. Training. Facility personnel must be trained in:
 - i. spill prevention and how to respond in the event of a spill;
 - ii. the proper operation and cleaning of production ponds and waste management units;
 - iii. feeding procedures; and
 - iv. the proper use of equipment.

Section E. Management of Solid Waste

This section applies to all Level I, Level II, Level III, and Level IV facilities.

1. Facilities that generate industrial solid wastes, as defined in 30 TAC § 335.1, shall comply with the provisions of 30 TAC Chapter 335 (relating to Industrial Solid Waste and Municipal Hazardous Waste). If the requirements of 30 TAC Chapter 335 do not apply to particular solid wastes they shall be disposed of in accordance with the THSC Chapter 361.
2. Dead aquatic species shall be routinely removed from production ponds and disposed of properly. Removal of dead aquatic species must be conducted in a manner to prevent contamination of water in the state and to prevent a nuisance or public health hazard. Dead aquatic species may not be disposed of into or adjacent to water in the state. The disposal of dead aquatic species on the surface of the land is prohibited.

3. The permittee shall maintain management records for all pond bottom sludge and other waste removed for disposal. The records shall be updated on a monthly basis; retained on-site for a minimum period of five years from the date of the record, measurement, or report; and available for inspection by the executive director. Records must include the following, at a minimum:
 - i. the volume of waste disposed of off-site;
 - ii. the origin and general composition of waste;
 - iii. the date(s) of disposal;
 - iv. the identity of hauler or transporter;
 - v. the location and total acreage of disposal site; and
 - vi. the method of final disposal.
4. All pond bottom sludge stockpiled or retained on-site shall be isolated from all stormwater run-on by dikes, terraces, berms, ditches, or other similar structures. The dike, terrace, berm, ditch, or similar structures shall be designed, constructed, and maintained to prevent run-on of the volume of rainfall generated by a 25-year, 24-hour storm event.
5. Adequate solid waste storage capacity shall be provided and be based upon waste production.
6. Removal of pond bottom sludge from production ponds or waste management units shall be conducted during favorable wind conditions that carry odors away from nearby receptors such as residences, businesses, and public buildings. At no time shall emissions from any activity create a nuisance odor condition.
7. Removal of accumulated pond bottom sludge from production ponds and waste management units must be conducted in a manner to prevent exceedance of the effluent limitations located in Part III. Section A. of this permit.
8. Pond bottom sludge may not be land applied within 100 feet of any private water well or within 500 feet of a public water supply well.

Section F. Wastewater Irrigation and Other Beneficial Re-Uses

This section applies to all Level I, Level II, Level III, and Level IV facilities that use wastewater for irrigation or other beneficial re-uses.

1. Beneficial on-site re-use of wastewater may occur to allow the safe utilization of this wastewater for conservation of surface and groundwater. Beneficial re-use may include, but is not limited to, landscape irrigation, fire protection, dust suppression, soil compaction, and maintenance of impoundments. Beneficial re-use is not a method for disposal.
2. Irrigation and other beneficial re-use practices shall be designed and managed to prevent contamination of ground or surface waters and to prevent the occurrence of nuisance conditions.
3. Irrigation and other beneficial re-use of wastewater shall be conducted in a manner that prevents wastewater runoff from the irrigation or beneficial re-use

area. The hydraulic loading rate shall be designed based on crop needs in accordance with 30 TAC § 309.20, applied in a manner to prevent excessive nitrogen application, and shall not exceed the available water capacity of the soil.

4. Wastewater shall not be land applied within 100 feet of any private water well or within 500 feet of a public water supply well.
5. The permittee shall maintain an operating log that records the volume of wastewater used for irrigation each day, the time at which each wastewater application period commences and terminates, and the actual surface area irrigated each day. For beneficial re-uses other than irrigation, the permittee must record in the operating log the volume of wastewater re-used each day and the type of re-use (fire protection, dust suppression, etc.) The operating log shall be retained on-site for a minimum period of five years from the date of the record, measurement, or report for inspection by the executive director.
6. Wastewater shall not be land applied when the ground is frozen or saturated, during rainfall events, within 24 hours after a measured rainfall of 0.5 inch or greater, or to any surface area containing standing water.
7. The permittee shall maintain a perennial crop of vegetative cover over the irrigated area. If agricultural crops are irrigated, the crops must be harvested, and the harvested material removed from the field, at least once each year to prevent nuisance conditions. Fertilizers or other nutrient sources may be used if necessary to maintain healthy vegetation on the irrigated fields.
8. The permittee shall provide adequate maintenance of the irrigation system to ensure that the system is in good working condition.
9. Stormwater drainage shall be prevented from entering any irrigation holding ponds.

Section G. Discharge of Wastewater into Water in the State

This section applies to all Level I, Level II, Level III, and Level IV facilities that discharge into water in the state.

1. All discharges shall comply with 30 TAC § 319.22 (relating to Quality Levels-Inland Waters) or shall comply with 30 TAC § 319.23 (relating to Quality Levels-Tidal Waters).
2. There shall be no discharge of floating solids or visible oil nor shall the discharge cause any nuisance conditions affecting the public along the discharge route. The discharge shall not exhibit foaming of a persistent nature as required by 30 TAC § 307.4(b).
3. Dewatering of ponds shall be accomplished by discharge of the uppermost portion of the water column, when possible, to avoid discharge of disturbed bottom sediments.
4. The re-use of pond wastewater should occur to the maximum extent possible. Pond wastewater shall be recirculated or re-used wherever appropriate and cost effective.

5. Discharges shall be controlled such that flow rates minimize any increase in turbidity of the receiving stream due to erosion or suspension of sediments.
6. Discharges shall not cause substantial and persistent changes from ambient conditions of turbidity and color.
7. Drugs, Medications, and Chemicals
 - a. Only drugs, medications, and chemicals approved by the United States Environmental Protection Agency (EPA) or the United States Food and Drug Administration (FDA) for aquaculture use may be used in water that will be discharged. Treatment shall be limited to those aquatic species and to those purposes for which approval was granted. Treatment shall be used only as necessary, and only as directed on the product label. The water shall be diluted, held for a specific time, or neutralized prior to discharge as directed on the product label or as necessary to comply with 30 TAC Chapter 307 (relating to Texas Surface Water Quality Standards) or as needed to be below the concentration level used for a long-term static treatment, whichever is the lowest concentration. Records of all drugs, medications, and chemicals utilized for treatment shall be maintained on a monthly basis at the facility and shall be readily available for inspection by authorized representatives of the executive director for at least three years. Records shall include treatment concentrations, discharge volumes and dates and a product label or Material Safety Data Sheet for each drug, medication, or chemical utilized.
 - b. Notification, outlined below, shall be provided to the TCEQ's Industrial Permits Team, of the use of any investigational new animal drug (INAD) or any extralabel drug where such a use may lead to discharge of the INAD or extralabel drug. Reporting is not required for an INAD or extralabel drug use that has been previously approved by FDA for a different species or disease if the INAD or extralabel use is at or below the approved dosage and involves similar conditions of use.
 - i. The permittee must provide a written report of an INAD's impending use within 7 days of participating in an INAD study. The written report must identify the INAD to be used, method of use, the dosage, and the disease or condition the INAD is intended to treat.
 - ii. For INADs and extralabel drug uses, the permittee must provide an oral report as soon as possible, preferably in advance of use, but no later than 7 days after initiating use of an INAD or extralabel drug. The oral report must identify the drugs used, methods of application, and the reason for using the particular drug or drugs.
 - iii. For INADs and extralabel drug uses, the permittee must provide a written report within 30 days after initiating use of the INAD or extralabel drug. The written report must identify the drug or drugs used and include the following: the reason for treatment, date(s) and time(s) of the addition (including duration), method of application, and the amount added.

- c. Notification shall not be required for the use of compounds that have undergone review by the FDA and have been determined by the FDA to be drugs of low regulatory priority.

Part IV. Discharge Monitoring and Reporting Requirements

Section A. Sampling Requirements

1. Monitoring samples and measurements shall be taken at times and in a manner so that it is representative of the monitored activity.
2. The sampling point used to determine compliance with the monitoring conditions of this general permit must be downstream of any waste management unit used and prior to discharge into water in the state.
3. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.
4. All samples must be collected according to the latest edition of "*Standard Methods for the Examination of Water and Wastewater*" (prepared and published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation), the EPA's, "*Methods for Chemical Analysis of Water and Wastes*" (1979), or the EPA's, "*Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents*" (1973).
5. Sample containers, holding times, preservation methods, and the methods of analyses for effluent samples shall meet the requirements in 40 CFR Part 136 (as amended), or shall be in accordance with the latest edition of "*Standard Methods for the Examination of Water and Wastewater*" referenced above.
6. All laboratory tests required to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

Section B. Reporting Requirements

1. Monitoring results shall be provided on an approved Discharge Monitoring Report form (DMR) (EPA Form 3320-1) or online using the NetDMR reporting system available through the TCEQ website. Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in this general permit. DMRs shall be submitted on a monthly basis to the TCEQ's Enforcement Division (MC 224). The DMR for any given calendar month shall be due by the 20th day of the following calendar month for each discharge that is described by this permit regardless of whether there is a discharge during the reporting month.
2. If the permittee monitors any pollutant in a discharge more frequently than required by the permit using approved analytical methods as specified in this permit, all results of such monitoring shall be included in the calculation and

recording of the values on the DMR. Increased frequency of sampling shall be indicated on the DMR.

3. The records of all monitoring activities shall be maintained at the facility and shall be readily available for inspection by authorized representatives of the TCEQ for a minimum period of five years from the date of the record or sample, measurement, report, or certification. Records of monitoring activities shall include:
 - a. the date, time and place of sample or measurement;
 - b. the identity of individual who collected the sample or made the measurement;
 - c. the date of the analysis;
 - d. the identity of the individual(s) and laboratory who performed the analysis;
 - e. the technique or the method of analysis; and
 - f. the results of the analysis or measurement.
4. Noncompliance Notification
 - a. Any noncompliance that may endanger human health or safety, or the environment, shall be reported by the permittee to TCEQ. Report of such information shall be provided orally, by electronic mail, or by electronic facsimile transmission to the appropriate TCEQ regional office within 24 hours of the permittee becoming aware of the noncompliance. A written report shall be provided by the permittee to the appropriate TCEQ regional office and to the TCEQ Enforcement Division (MC-224) within five working days of the permittee becoming aware of the noncompliance. The written report shall contain:
 - i. a description of the noncompliance and its cause;
 - ii. the potential danger to human health or safety, or the environment;
 - iii. the period of noncompliance, including exact dates and times;
 - iv. if the noncompliance has not been corrected, the anticipated time it is expected to continue;
 - v. the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects; and
 - vi. the quality assurance/quality control records.
 - b. Any noncompliance other than those specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible.

Part V. Standard Permit Conditions

1. The permittee has a duty to comply with all conditions in this general permit. Failure to comply with any permit condition is a violation of the permit and statutes under which it was issued and is grounds for enforcement action, for

terminating coverage under this general permit, or for requiring a permittee to apply for and obtain an individual TPDES permit or TLAP.

2. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the permit conditions.
3. The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Proper operation and maintenance also includes adequate laboratory and process controls and appropriate quality assurance procedures. This provision requires the operation of back-up facilities, auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the general permit.
4. The permittee must submit, upon request of the executive director, any information that is necessary for the executive director to determine whether cause exists for revoking, suspending, or terminating authorization under this general permit. Additionally, the permittee must submit, upon request of the executive director, copies of all records that the permittee is required to maintain as a condition of this general permit. The requested information or records must be provided within a reasonable time frame and in no case later than 30 days from the date of the request.
5. The permittee shall give notice to the executive director and TPWD before physical alterations or additions to the permitted facility if such alterations or additions would result in a violation of permit requirements.
6. Inspection and entry shall be allowed under TWC Chapter 26, THSC §§ 361.032-361.033 and 361.037, and Title 40 CFR § 122.41(i). The statement in TWC § 26.014 that commission entry of a facility shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection are not grounds for denial or restriction of entry to any part of the facility, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection.
7. All reports, NOIs, NOTs, NOCs, and other information requested by the executive director shall be signed by the person and in the manner required by 30 TAC § 305.44 (relating to Signatories to Applications).
8. Authorization under this general permit may be suspended or revoked for reasons stated in 30 TAC § 205.4 (relating to Authorizations and Notices of Intent). The filing of a notification by the permittee of planned changes or anticipated noncompliance does not stay any permit condition.
9. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051, 7.101, 7.148, and 7.149 for violations including but not limited to the following:
 - a. violating CWA, §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA § 402, or

- any requirement imposed in a pretreatment program approved under CWA §§ 402(a)(3) or 402(b)(8);
- b. intentionally or knowingly tampering with, modifying, disabling, or failing to use pollution control or monitoring devices, systems, methods, or practices required under this permit; or
 - c. intentionally or 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.
10. Authorization under this general permit does not convey property or water rights of any sort and does not grant any exclusive privilege.
 11. The permittee shall retain all records related to the application, monitoring, or certification for a period of five years from the date of the record or sample, measurement, report, application, or certification.
 12. Applicants seeking authorization under this general permit and permittees that are authorized under this general permit are hereby issued a waiver from the electronic reporting requirements of 40 CFR Part 127. Therefore, applicants and permittees may continue to submit NOI, NOT, and NOC forms to TCEQ in paper format. Permittees may submit DMR forms in paper format or online using the NetDMR reporting system available through the TCEQ website.

Part VI. Fees

The submission of an NOI to the executive director must include an application fee of \$100.00. Additionally, the executive director will assess an annual water quality fee under TWC § 26.0291, in accordance with the following fee rate schedule.

1. Level I Authorization
No annual water quality fee will be assessed.
2. Level II Authorization
An annual water quality fee of \$100.00 will be assessed.
3. Level III Authorization
An annual water quality fee of \$250.00 will be assessed.
4. Level IV Authorization
An annual water quality fee of \$250.00 will be assessed.

Notice of Water Quality Authorization

Instructions: Select one of the options under Section A **OR** select Yes under Section B.

A. This facility qualifies for, and is authorized as a Level I Facility under, Part II.A.1 of the Texas Commission on Environmental Quality's General Permit Number TXG130000. This facility qualifies under the following description and criteria. Select the facility type (more than one may be selected).

- Retail bait dealer
- Crawfish production in conjunction with rice farming
- Ponds used as pay lakes
- Facility that exclusively utilizes closed ponds
- Public or commercial aquarium
- Aquarium supplier
- Live fish hauler
- An aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight equal to or less than 10,000 pounds.
- A facility that only temporarily holds and does not feed aquatic species.

B. This facility is not required to obtain a water quality discharge permit from the Texas Commission on Environmental Quality because the facility meets one of the criteria identified in Part II.B.7 of General Permit Number TXG130000. Yes

Site Name: _____

Site Physical Address or Location Description:

Contact Name: _____

Contact Phone Number: _____

I certify under penalty of law that I have read and understand the eligibility requirements for claiming an authorization under Part II.A.1. or the permit exemption under Part II.B.7. of TPDES General Permit TXG130000 and agree to comply with the terms of the permit. I am aware there are significant penalties for providing false information or for conducting unauthorized discharges, including the possibility of fine and imprisonment for knowing violations.

Printed Name: _____

Signature: _____

Date: _____

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For renewal with amendment of Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXG130000 for discharges into or adjacent to water in the state.

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

Prepared by: Laurie Fleet
Wastewater Permitting Section
Water Quality Division

Date: April 27, 2015

Permit Action: Renewal with Amendment

I. Summary

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to renew and amend a general permit authorizing discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture. Permit eligibility is divided into four levels of authorization based on activity and size with each level having specific regulatory requirements.

II. Executive Director's Recommendation

The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed that the permit will expire five years from the effective date in accordance with the requirements of 30 Texas Administrative Code (TAC) § 205.5(a).

III. Permit Applicability and Coverage

- A. Eligibility for authorization under this general permit is divided into four levels: Level I, Level II, Level III, and Level IV.
1. Level I Facility. Operations meeting the following descriptions and criteria:
 - a. Retail bait dealers;
 - b. Discharges resulting from the production of crawfish in conjunction with rice farming;
 - c. Ponds used as pay lakes;
 - d. Facilities that exclusively utilize closed ponds;
 - e. Public or commercial aquariums;
 - f. Aquarium suppliers;
 - g. Live fish hauling tanks;

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- ii. discharges at a daily maximum flow rate of less than 5 million gallons per day; and
 - iii. discharges at a total monthly flow volume of less than 12.5 million gallons.
4. Level IV Facility. Concentrated aquatic animal production facilities that meet the thresholds of Level III and produce 100,000 pounds or more of aquatic species per year in a flow-through system or recirculating system may apply for coverage under Level IV.

B. Limitations on Coverage

1. The following discharges are not eligible for coverage under this general permit and must apply for an individual permit prior to discharge:
 - a. Any commercial aquaculture facility that produces shrimp species in ponds, raceways, or similar structures within the coastal zone and that discharge into surface water in the state.
 - b. Any commercial aquaculture facility that produces shrimp species, that is located within the coastal zone, and that conducts collaborative research with a shrimp research facility and discharges into surface water in the state.
 - c. Any aquaculture facility that discharges to freshwater receiving waters with a total dissolved solids difference between the discharge and the receiving water greater than 500 milligrams per liter (mg/L).
 - d. Any aquaculture facility that discharges to an estuarine or marine receiving water with a salinity difference between the discharge and the receiving water greater than 2 parts per thousand.
 - e. Any aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight greater than 10,000 pounds.
2. Discharges are not authorized by this general permit where prohibited by:
 - a. 30 TAC Chapter 311 (relating to Watershed Protection);
 - b. 30 TAC Chapter 213 (relating to the Edwards Aquifer);
 - c. 31 TAC Chapter 57, Subchapter C (relating to Introduction of Fish, Shellfish and Aquatic Plants); or
 - d. Any other applicable rules or laws.
3. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30 TAC Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed in the most current version of the Texas Integrated Report of Surface Water Quality and in accordance with Clean Water Act (CWA) § 303(d). Constituents of concern are those pollutants for which a water body is listed as impaired.

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4. Discharges of the constituent(s) of concern to impaired water bodies when there is a TCEQ approved total maximum daily load (TMDL) implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The executive director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual permit or other applicable general permit authorization prior to discharging.
5. Discharges that are associated with the processing of aquatic organisms by packing as fresh or frozen product, canning, smoking, salting, drying or otherwise curing, or rendering for use as human or animal food are not authorized by this general permit.
6. The discharge of domestic sewage into or adjacent to water in the state is not authorized by this general permit. All domestic sewage shall be either discharged pursuant to an individual permit issued by the TCEQ; routed to an authorized and adequately designed sewage treatment facility or Publicly Owned Treatment Works (POTW); routed to on-site sewage facilities (septic systems) permitted by local authorities; or transported to an approved off-site disposal facility.
7. Facilities that dispose of wastewater by any of the following practices are not required to obtain coverage under this general permit:
 - a. recycling with no resulting discharge into or adjacent to water in the state;
 - b. pumping and hauling to an authorized disposal facility;
 - c. discharge to a POTW;
 - d. underground injection in accordance with 30 TAC Chapter 331; or
 - e. discharge to above ground storage tanks with no resulting discharge into or adjacent to water in the state.
8. The executive director will deny an application for authorization under this general permit and may require that the applicant apply for an individual permit, if the executive director determines that the discharge will not maintain existing uses of receiving waters. Additionally, the executive director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. The executive director shall deny or suspend a facility's authorization for discharge under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC §60.3, *Use of Compliance History*. An applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the commission prior to having its authorization denied or suspended, in accordance with Texas Water Code (TWC) § 26.040(h). Denial of authorization for discharge under this general permit will be done according to commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*.

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9. The executive director may deny a Notice of Intent (NOI) to discharge under this general permit based on the potential or actual adverse impact. A determination of potential adverse impact may arise from consideration of such factors as proposed flow rate, production rate, or nature of the receiving stream. The executive director shall also consider any sensitive aquatic habitat in the coastal zone identified in the general guidelines developed by the Texas Parks and Wildlife Department (TPWD). In making a determination of potential adverse impacts, the executive director may also consider other factors, as necessary.
10. Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.

IV. General Permit Effluent Limitations

A. The following numeric effluent limitations apply to Level II facilities that discharge into water in the state, and all Level III and Level IV facilities:

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Flow (MGD)	Report	Report	Estimate	1/day
Total Suspended Solids	N/A	90 mg/l	Grab	1/month
Inorganic Suspended Solids	N/A	Report mg/l	Grab	1/month
Total Residual Chlorine	N/A	0.1 mg/l	Grab	1/day ²
pH (Standard Units)	6.0 minimum	9.0 maximum	Grab	1/week

- ¹ Monitoring frequency for Level II Facilities shall be once per six months except for flow monitoring which shall be conducted daily.
- ² Monitoring for total residual chlorine is required only when the effluent being discharged has been chlorinated.

B. The following effluent limitations apply to Level II, Level III and Level IV facilities discharging to perennial streams with a headwater flow greater than 2.5 cubic feet per second (cfs), and to all other water bodies:

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Dissolved Oxygen	5.0 mg/l minimum	N/A	Composite ²	1/week
CBOD ₅	N/A	250 lbs/day and Report mg/L	Grab	1/month

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Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Ammonia Nitrogen	N/A	2.0 mg/l	Grab	1/month

¹ Monitoring frequency for Level II Facilities shall be once per six months.

² Four grab samples shall be collected and analyzed individually. The results of those analyses shall be averaged for reporting purposes. The first sample shall be taken within 30 minutes of initial discharge. Subsequent samples shall be taken at intervals of no less than two hours and no more than four hours apart with a minimum of four samples or until discharge is discontinued. At least one of the four samples shall be collected between 6:00 a.m. and 9:00 a.m. if discharge occurs within this time period.

- C. The following effluent limitations apply to Level II, Level III, and Level IV facilities discharging to perennial streams with a headwater flow less than 2.5 cfs;

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Dissolved Oxygen	6.0 mg/l minimum	N/A	Composite ²	1/week
CBOD ₅	N/A	64 lbs/day and Report mg/L	Grab	1/month
Ammonia Nitrogen	N/A	2.0 mg/l	Grab	1/month

¹ Monitoring frequency for Level II Facilities shall be once per six months.

² Four grab samples shall be collected and analyzed individually. The results of those analyses shall be averaged for reporting purposes. The first sample shall be taken within 30 minutes of initial discharge. Subsequent samples shall be taken at intervals of no less than two hours and no more than four hours apart with a minimum of four samples or until discharge is discontinued. At least one of the four samples shall be collected between 6:00 a.m. and 9:00 a.m. if discharge occurs within this time period.

V. Changes from the Existing Permit

- A. The following definitions (Part I) were revised:

1. Added a definition for "aquaculture facility". This term is used throughout the permit to collectively refer to Level II, III, and IV facilities.
2. Revised the definitions for "concentrated aquatic animal production facility" and "aquatic animal production facility" to remove duplicate language in the definition of "aquaculture facility".

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3. Removed the definition of "facility" and "process controls". The previous definitions did not correspond to the use of the terms within the general permit.
 4. Removed the definition of "tailwater control" because the term will not be used in the general permit.
 5. Added a definition for "perennial stream".
 6. Changed the definition of "land application" to "irrigation", because the permit uses the term irrigation rather than land application.
- B. Throughout the permit, the term "aquatic animals" was replaced with "aquatic species" and "waste management pond" was replaced with "waste management unit" to use defined terms.
- C. Part II.A.1-4 were revised to remove language related to submittal of an NOI because this requirement is more appropriately located in Part II.C. Application for Coverage.
- D. Part II.B.8 was revised to add additional limitations on coverage related to compliance history rating of "unsatisfactory performer" and pursuant to the October 23, 2013 Commissioner's Order on the Livestock Manure Composting General Permit, WQG200000, the draft permit was similarly revised to clarify that an applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the commission prior to denial or suspension of an authorization.
- E. Part II.C.1 was revised to clarify the requirements for Level I facilities.
- F. Part II.C.2 was revised to specify that failure to submit a new NOI by the renewal deadline will result in expiration of the existing authorization to operate under the previous general permit.
- G. Part II.C.8 was revised to clarify which form (NOI or Notice of Change (NOC)) is required by each facility level to notify the executive director of a change in facility level.
- H. Part III was revised to clarify which facility level is required to comply with the requirements of each section by adding an applicability statement at the beginning of each section.
- I. Part III.A.1 was revised to clarify that the effluent limitations and monitoring requirements in the table only apply to Level II facilities that discharge into water in the state. Level II facilities that discharge adjacent to water in the state are not subject to the effluent limitations and monitoring requirements in the table.
- J. Part III.A.2 and 3 regarding effluent limits were revised to require the permittee to report Carbonaceous Biochemical Oxygen Demand (5-day) in mg/L. This information will assist in evaluating effluent limitations in future permit actions.
- K. Parts III.B-G were re-organized to improve readability. Specifically, the sections for Best Management Practices and Groundwater Protection were moved to the

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General Requirements section, a new section was created which contains specific requirements for certain Level II facilities similar to the existing section for specific requirements for Level IV facilities, the Waste Utilization or Disposal by Land Application of Wastewater and Pond Bottom Sludges section was split into two separate sections (Management of Solid Waste and Wastewater Irrigation and Other Beneficial Re-Uses), and a new section was created which contains requirements specific to facilities that discharge wastewater into surface water in the state.

- L. Part III.B.2 was revised to replace specific citations to general citations for 31 TAC Chapter 57 and 31 TAC Chapter 69 because TPWD is currently revising the regulations and the specific citations will likely change.
- M. Part III.B.8 was revised to replace a reference to requirements in 16 TAC Chapter 76 with the specific water well buffers required in the regulations.
- N. Part III.B.9 was revised to prohibit the use of trees and shrubs as vegetative cover for earthen levees and dikes. Trees and shrubs have large roots that can compromise the structural integrity.
- O. Part III.B.10 was added which requires the permittee to develop a site map that depicts the site boundaries; each production pond, each waste management unit; the location of each outfall and sampling point if different from the outfall location; the location of all receiving waters; and the location of irrigation areas, if applicable. The map will assist both the permittee and TCEQ investigators with the overall facility layout and the location of pertinent components of the facility.
- P. Part III.B.11 was added which provides the contact information for the Texas Department of Agriculture and TPWD. These other state agencies also regulate aquaculture facilities.
- Q. Part III.D.1 was revised to require reporting of failure or damage to a production pond that results in an unanticipated material discharge of pollutants adjacent to water in the state in addition to the existing requirement for reporting such discharges into water in the state. As unauthorized discharges, it is appropriate to require the permittee to notify TCEQ of unanticipated material discharges adjacent to water in the state similar to discharges into water in the state.
- R. Parts III.D.1.d. and e. were revised to require reporting of the identification of the material discharged in addition to the estimated quantity of the discharge. As noted above, these discharges can be from materials other than wastewater.
- S. Part III.D.3 was revised to require the Best Management Practices plan to be retained on site for five years instead of three years. This timeframe corresponds to the term of the permit.
- T. Part III.E.2 was revised to clarify that the disposal of dead aquatic species on the surface of the land is prohibited. The general permit already stated that dead aquatic species may not be disposed of into or adjacent to water in the state.

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- U. Part III.F.1 was added to authorize the beneficial re-use of wastewater on-site for all facility levels. Beneficial re-use of this wastewater allows for the conservation of surface and groundwater.
- V. Part III.F.3 was revised to replace the requirement for the installation of tailwater control facilities with a requirement that irrigation and beneficial re-use be conducted in a manner that prevents wastewater runoff from the irrigation or re-use area.
- W. Part III.F.5 was revised to add recordkeeping requirements for wastewater that is beneficially re-used.
- X. Part III.F.6 was revised to prohibit land application of wastewater when the ground is frozen or saturated or during rainfall events. This prevents the runoff of wastewater from the irrigated areas.
- Y. Part IV and V were revised to make the sampling and reporting requirements and standard permit conditions consistent with 30 TAC §305.125(9), Standard Permit Conditions.
- Z. Part V.12 was added to grant a waiver to applicants and permittees from the electronic reporting requirements in 40 Code of Federal Regulations Part 127.
- AA. Attachment 1 was revised by changing the title and adding an option for facilities that are not required to obtain a water quality discharge permit because the facility does not discharge into or adjacent to water in the state.

VI. Addresses

Comments on this proposed general permit should be sent to:

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

Questions concerning this draft general permit should be directed to:

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

Supplementary information on this fact sheet is organized as follows:

- VII. Legal Basis
- VIII. Regulatory Background
- IX. Permit Coverage
- X. Technology-Based Requirements

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- XI. Water Quality-Based Requirements
- XII. Monitoring and Reporting
- XIII. Procedures for Final Decision
- XIV. Administrative Record

VII. Legal Basis

Texas Water Code (TWC) § 26.121 makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC § 26.027 authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC § 26.040 provides the commission with the authority to amend or adopt, as necessary to implement this section, rules adopted under TWC § 26.040, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the TPDES program. The TCEQ and the EPA have signed a Memorandum of Agreement which authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program to the TCEQ as it applies to the State of Texas.

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

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

40 Code of Federal Regulations (CFR) Part 451, Concentrated Aquatic Animal Production (CAAP) Point Source Category provides technology based limits for discharges from CAAPs that produce 100,000 pounds or more of aquatic animals per year in a flow-through, recirculating, net pen or submerged cage system. There are no federal guidelines for other aquaculture facilities. Until such guidelines are published, however, the CWA § 402(a)(1) requires that appropriate BCT and BAT effluent limitations be included in permitting actions on the basis of best professional judgment (BPJ).

VIII. Regulatory Background

The regulation of discharges from aquaculture facilities was initially authorized by rule, 30 TAC Chapter 321, Subchapter O (relating to Discharges from Aquaculture Production Facilities) with an effective date of July 28, 1997 and the amendment effective on September 1, 2003. The permit by rule was replaced by TPDES General Permit TXG130000 in April 2006 and 30 TAC Chapter 321, Subchapter O was repealed in September 2007. The commission was given authority to issue general permits by House Bill (HB) 1542, 75th Texas Legislature (1997). Further clarification of general permit authority was provided in subsequent legislation, HB 1283, 76th Texas Legislature (1999). As a result of this authority, and in accordance with a memorandum of agreement between the EPA and TCEQ relating directly to the TPDES permit program, the commission is seeking to reissue this general permit.

IX. Permit Coverage

This general permit covers authorizes discharges into or adjacent to water in the state by aquaculture facilities, and certain related activities. Permit eligibility is divided into four levels of authorization based on activity and size, with each level having specific regulatory requirements.

The general permit specifies which facilities are eligible for authorization under the general permit and which must be authorized by individual permit. All commercial shrimp production facilities located within the defined coastal zone are required to obtain an individual TPDES permit as defined in the TWC § 26.0345. However, shrimp research facilities located in the coastal zone that are below the thresholds defined in the general permit are eligible for authorization under this general permit. The information developed by research facilities typically provides indirect support to commercial activities, and may be located in conjunction with a commercial facility. In such situations, the facility will be eligible for authorization under the general permit as long as the research is conducted by a separate facility. However, commercial facilities with a research arm do not meet the definition of a research facility.

Facilities that do not discharge waste into or adjacent to water in the state are not required to obtain coverage under this general permit or an individual permit. This includes facilities that dispose of wastewater by recycling, pumping and hauling, discharge to a POTW, underground injection in accordance with 30 TAC Chapter 331, or discharge to above ground storage tanks.

To obtain authorization to discharge under the proposed general permit, an applicant must meet the following guidelines:

1. Operations that meet the descriptions and criteria that qualify for Level I are not required to submit an NOI in order to be authorized under this general permit. Qualifying operations may, however, complete Attachment 1, Notice of Water Quality Authorization, and utilize this notice as necessary to demonstrate authorization under the general permit.
2. Applicants seeking authorization to discharge under Level II, III, or IV of this general permit must submit a completed NOI on a form approved by the

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executive director. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name and address, specific description of its location, (including the street address, if applicable, and county), the type of facility and discharge, the name of the receiving water, and the estimated volume of the discharge (expressed as gallons per day).

3. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. The NOI must be submitted to the address indicated on the NOI form. Coverage under the terms and conditions of this general permit begins when the applicant is issued an authorization number by certificate. The executive director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied.
4. Coverage under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit a NOI. The NOT and NOI must be submitted concurrently no fewer than 10 days before the transfer occurs. 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 and would require the new operator to apply for permit coverage as stated above. If the NOT and NOI are submitted as required under this provision, there will be no lapse in authorization for the facility.
5. If the owner or operator becomes aware that it failed to submit any relevant facts, or submitted incorrect information in an NOI, the correct information must be provided to the executive director in an NOC within 14 days after discovery. If relevant information provided in the NOI changes (for example, address, phone number, authorization Level, discharge days, production weight, aquaculture species produced) an NOC must be submitted within 14 days of the change.
6. Operators of aquaculture facilities that intend or plan to expand facilities, production, number of discharge days, or other factors that would change the facility level as described in Part II.A of this permit, must comply with one of the following prior to initiating these changes:
 - a. Level I facilities must submit an NOI and receive authorization;
 - b. Level II, Level III, and Level IV facilities must submit an NOC; or
 - c. Obtain authorization under a separate individual or general permit.
7. All NOIs, NOTs, and NOCs shall meet the requirements of 30 TAC §305.44(a) (relating to Signatories to Applications).
8. For discharges located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI, to the appropriate TCEQ regional office.

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Counties: Comal, Bexar, Medina, and Kinney
Contact: TCEQ Water Program Manager
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 78233-4480
210-490-3096

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

X. Technology -Based Requirements

The limitations and conditions of the proposed general permit have been developed to comply with the technology-based standards of the CWA. 40 CFR Part 451, Concentrated Aquatic Animal Production (CAAP) Point Source Category, Subpart A, Flow-Through and Recirculating Systems Subcategory provides technology based limits for discharges from CAAPs that produce 100,000 pounds or more of aquatic animals per year in a flow-through or recirculating system. Technology-based requirements for flow-through and recirculating systems are included in the general permit based on BPT (BAT/BCT defer to requirements representing the applicable BPT). These requirements include:

- A. Reporting requirements for failure or damage to the containment system and spills of pesticides, drugs, and feed.
- B. Development of a Best Management Practice (BMP) Plan for solids control, material storage, structural maintenance, record-keeping, and training.

The general permit does not authorize coverage for net pen or submerged cage systems that produce more than 10,000 pounds per year, (a lower level than established in 40 CFR Part 451, Subpart B, Net Pen Subcategory) therefore the federal guidelines were not applied to these systems.

There are no applicable federal guidelines identifying the BPT, BCT, and BAT standards for other types of aquaculture facilities, therefore additional technology-based effluent limitations are based on BPJ. The parameters selected for BCT/BAT limits are the primary pollutants of concern for all discharges authorized in the general permit.

Technology-based limitations and monitoring requirements are included in the general permit for TSS, inorganic suspended solids and pH. Activities related to the harvest of aquatic species in production ponds, such as seining and dewatering, have a potential to suspend pond bottom sludges that are subsequently discharged with pond effluent. An effluent limitation of 90 mg/L for TSS is established for BCT based on BPJ. This limit is consistent with the limitation for stabilization ponds required in 30 TAC §309.4. The suspension of inorganic suspended solids can lead to turbidity and may also contribute

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to the deposition of solids and filling of receiving waters, therefore a report requirement was included in the draft permit. An effluent limitation for pH of 6.0 to 9.0 standard units is also included which is a typical requirement for all TPDES permits to prevent acidic or alkaline discharges.

XI. Water Quality-Based Requirements

Water quality-based effluent limitations are included in the proposed permit for dissolved oxygen (DO), carbonaceous biochemical oxygen demand 5-day (CBOD₅) and ammonia nitrogen. Modeling was conducted to determine effluent limitations to ensure the DO criteria delineated in 30 TAC Chapter 307 will be maintained with consideration for the various types of waters that may receive the authorized discharges. The most stringent DO standard of 5.0 mg/L for perennial streams was utilized for modeling purposes. Modeling results determined that an effluent set of 30 mg/l CBOD₅, 2.0 mg/l ammonia nitrogen, and 5.0 mg/l DO is protective of discharges into all water bodies except perennial streams with a headwater flow less than 2.5 cubic feet per second (cfs)(Appendix B). For discharges to perennial streams with headwater flows less than 2.5 cfs, modeling was conducted based on a headwater flow of 0.1 cfs (Appendix C). Effluent limitations were then converted to mass limitations utilizing the corresponding effluent flow utilized for modeling. Appendix A of this fact sheet includes the CBOD₅, ammonia nitrogen, and DO effluent limitations that are needed to maintain the required DO for different types of water bodies at various flows.

Aquaculture production facilities may use chlorine for periodic small-scale disinfection of raceways, fabricated tanks and equipment. Discharges must not exceed a chlorine concentration of 0.1 mg/l as a grab sample based on the protection of aquatic life. The total residual chlorine limitation will ensure that the effluent is not acutely toxic to aquatic life at the point of discharge.

XII. Monitoring and Reporting

Monitoring is required by 40 CFR § 122.44(i) for each pollutant limited in a permit to ensure compliance with permit limits. The general permit has the following criteria established for monitoring and reporting based on the requirements of 30 TAC Chapter 319.

- A. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- B. The sampling point to determine compliance with the monitoring conditions of this general permit must be downstream of any waste management unit used and prior to discharge into to water in the state.
- C. All samples must be collected according to the latest edition of "Standard Methods for the Examination of Water and Wastewater" (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the Environmental Protection Agency's, "Methods for Chemical Analysis of Water and Wastes" (1979), or the Environmental Protection Agency's, "Biological Field and

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Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973).

- D. Sample containers, holding times, preservation methods, and the analytical methods for the analyses of effluent samples shall meet the requirements in 40 CFR Part 136, or in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater."
- E. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.
- F. All laboratory tests required to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.
- G. Monitoring results shall be provided at the intervals specified in the permit on an approved Discharge Monitoring Report form (DMR) (EPA Form 3320-1) or online using the NetDMR reporting system available through the TCEQ website. Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in the general permit. DMRs shall be submitted on a monthly basis to the TCEQ's Enforcement Division (MC 224) or online using the NetDMR reporting system available through the TCEQ website. The DMR for any given calendar month shall be due by the 20th day of the following calendar month for each discharge that is described by this permit regardless of whether there is a discharge during the reporting month.
- H. If the permittee monitors any pollutant in a discharge more frequently than required by the permit using approved analytical methods as specified in this permit, all results of such monitoring shall be included in the calculation and recording of the values on the DMR. Increased frequency of sampling shall be indicated on the DMR.
- I. Records of monitoring activities shall include:
 - 1. the date, time and place of sample or measurement;
 - 2. the identity of the individual who collected the sample or made the measurement;
 - 3. the date of analysis;
 - 4. the identity of the individual and laboratory who performed the analysis;
 - 5. the technique or method of analysis; and
 - 6. the results of the analysis or measurement.
- J. The records of all monitoring activities shall be maintained at the facility and shall be readily available for inspection by authorized representatives of the TCEQ for a minimum period of five years.
- K. According to 30 TAC §305.125(9) any noncompliance which may endanger human health or safety, or the environment, shall be reported by the permittee to

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the TCEQ. Report of such information shall be provided orally, by electronic mail, or by electronic facsimile transmission to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written report shall be provided by the permittee to the TCEQ regional office and to the TCEQ 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;
4. if the noncompliance has not been corrected, the anticipated time it is expected to continue;
5. the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects; and
6. the quality assurance/quality control records.

XIII. Procedures for Final Decision

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

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

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

Any person, agency, or association may make a request for a public comment hearing on the proposed general permit to the executive director of the TCEQ before the end of the public comment period. A public comment hearing 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 comment hearing is intended for the taking of public comment, and is not a contested case proceeding under the Texas Administrative Procedure Act. The executive director may call and conduct public meetings in response to public comment.

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If the executive director calls a public meeting, the commission will give notice of the date, time, and place of the meeting, as required by commission rule. The executive director shall prepare a response to all significant public comments on the draft general permit raised during the public comment period. The executive director shall make the response available to the public. The general permit will then be filed with the commission to consider final authorization of the permit. The executive director's response to public comment shall be made available to the public and filed with the chief clerk at least 10 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. TPDES Permits

TPDES General Permit for Concentrated Aquatic Animal Production Facilities and Aquatic Animal Production Facilities (TXG130000) effective April 18, 2011.

B. 40 CFR Citations

40 CFR § 122.24

40 CFR Part 122, Appendix C

40 CFR Part 124

40 CFR Part 136

40 CFR Part 451

C. TCEQ Rules

30 TAC Chapters 7, 39, 205, 305, 307, 309, 319, 321, 331, and 335.

D. Letters/Memoranda/Records of Communication

Interoffice Memorandum dated April 1, 2015 from Peter Schaefer (Standards Implementation Team) to Industrial Permit Team.

Interoffice Memorandum dated April 27, 2015 from Mark Rudolph (Water Quality Assessment Team) to Wastewater Permitting Section.

E. Miscellaneous

Procedures to Implement the Texas Surface Water Quality Standards (RG-194), June 2010.

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APPENDIX A

MODELING OF POTENTIAL DISCHARGES INTO VARIOUS RECEIVING WATER TYPES.

Various scenarios have been modeled to demonstrate the minimum level of treatment required to maintain DO criteria. Discharges of 0.1 million gallons per day (MGD), 1.0 MGD, and 5.0 MGD have been evaluated for impacts into four types of receiving waters. The receiving waters analyzed were intermittent streams (2.0 mg/l DO criterion), perennial streams with 0.1 cubic feet per second (cfs) headwater (5.0 mg/l DO criterion), tidal rivers (4.0 mg/l DO criterion), and open shallow bays (4.0 mg/l DO criterion). Standard default values for hydraulic coefficients, kinetics, and temperature were used in all models. The results are as follows:

Water Body	Discharge (MGD)	Treatment Levels CBOD₅/NH₃-N/DO (mg/l)	Minimum Dissolved Oxygen (mg/l)
Intermittent Stream	0.1	30/3/4	4.3
(2.0 mg/l DO criterion)	1.0	30/3/4	2.3
	5.0	30/3/4	1.8
Perennial Stream	0.1	30/3/4	4.8
(5.0 mg/l DO criterion)	1.0	7/2/6	4.9
	5.0	5/2/6	4.8
Tidal River	0.1	30/3/4	4.5
(4.0 mg/l DO criterion)	1.0	30/3/4	4.5
	5.0	30/3/4	4.2
Open Bay	0.1	30/3/4	5.2
(2.0 mg/l DO criterion)	1.0	30/3/4	4.6
	5.0	10/3/4	4.2

Appendix B

Determination of CBOD₅ Mass Limitations for Discharges to Perennial Streams with a Headwater Flow of Greater than 2.5 Cubic Feet Per Second (cfs).

The following modeling runs have been performed using various discharge volumes to determine the level of treatment necessary to maintain DO criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). A headwater flow of 2.5 cfs was utilized.

Water Body	Discharge (MGD)	Treatment Levels CBOD₅/NH₃-N/DO (mg/l)	Minimum Dissolved Oxygen (mg/l)
Perennial Stream	0.59	30/5/4	4.8
(5.0 mg/l DO criterion)	0.68	30/4/4	4.8
	0.70	30/4/5	4.8
	0.79	30/3/4	4.8
	1.00	30/2/5	4.8
	1.05	30/2/6	4.8
	1.08	20/3/4	4.8
	1.17	20/3/5	4.8
	1.56	20/2/5	4.8
	1.69	20/2/6	4.8
	1.96	10/3/5	4.8
	2.25	10/3/6	4.8
	4.02	10/2/6	4.8

The effluent ratio of 30 CBOD₅/ 2 NH₃-N/and 5.0 DO will adequately maintain the dissolved oxygen (DO) criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). The corresponding discharge flow volume of 1.0 million gallons per day (MGD) was utilized to calculate a mass loading limitation for CBOD₅. The conversion factor for concentration to mass based limitations is 8.345.

Daily Maximum CBOD₅: 1.0 MGD x 8.345 x 30 mg/l = 250 lbs/day

Appendix C

Determination of CBOD₅ Mass Limitations for Discharges to Perennial Streams with a Headwater Flow of Less than 2.5 Cubic Feet Per Second (cfs).

The following modeling runs have been performed using various discharge volumes to determine the level of treatment necessary to maintain DO criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). A headwater flow of 0.1 cfs was utilized.

Water Body	Discharge (MGD)	Treatment Levels CBOD₅/NH₃-N/DO (mg/l)	Minimum Dissolved Oxygen (mg/l)
Perennial Stream	0.11	30/3/4	4.8
(5.0 mg/l DO criterion)	0.13	20/3/4	4.8
	0.17	10/3/4	4.8
	0.18	30/2/6	4.8
	0.20	20/3/5	4.8
	0.22	20/3/6	4.8
	0.28	20/2/5	4.8
	0.32	20/2/6	4.8
	0.36	10/3/5	4.8
	0.43	10/3/6	4.8
	0.77	10/2/6	4.8
	0.86	7/2/5	4.8
	1.81	7/2/6	4.8

The effluent ratio of 10 CBOD₅/ 2 NH₃-N/and 6.0 DO will adequately maintain the dissolved oxygen (DO) criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). The corresponding discharge flow volume of 0.77 million gallons per day (MGD) was utilized to calculate a mass loading limitation for CBOD₅. The conversion factor for concentration to mass based limitations is 8.345.

Daily Maximum CBOD₅: 0.77 MGD x 8.345 x 10 mg/l = 64 lbs/day

COMMISSIONERS' RESPONSE TO PUBLIC COMMENT ON GENERAL PERMIT NO. TXG130000

The executive director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment on General Permit Number TXG130000, which authorizes discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture. 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. One timely public comment letter was received from the Texas Parks & Wildlife Department (TPWD).

Background

Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG130000 authorizes discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture. The proposed general permit will replace the current general permit that expires on April 18, 2016.

Procedural Background

TCEQ published notice of the draft permit to solicit public comment in the *Houston Chronicle*, and the *Texas Register* on October 16, 2015. The public comment period ended on November 16, 2015. This permit is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Texas Legislature, 1999.

Comments and Responses

Comment 1:

TPWD noted that there was a small typographical error on the Notice of Level 1 Authorization; it contained a reference to Part III, Section B.7, which should instead cite Part II, Section B.7.

Response 1:

The TCEQ acknowledges this comment and corrected the citation.

**DOCKET NO. 2015-1217-MIS
General Permit No. TXG130000**

IN THE MATTER OF A RENEWAL WITH	§	BEFORE THE TEXAS
AMENDMENT OF A TEXAS	§	COMMISSION ON
POLLUTANT DISCHARGE	§	ENVIRONMENTAL
ELIMINATION SYSTEM (TPDES)	§	QUALITY
GENERAL PERMIT AUTHORIZING	§	
DISCHARGES FROM AQUACULTURE	§	
FACILITIES AND OTHER RELATED	§	
FACILITIES	§	

COMMISSION RESOLUTION ISSUING A GENERAL PERMIT

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

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

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

WHEREAS, a renewal with amendments of a Texas Pollutant Discharge Elimination System (TPDES) general permit authorizing discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture, was drafted and proposed by the executive director and is attached as Exhibit A;

WHEREAS, the TCEQ received a public comment on the general permit, and drafted a Response to Public Comment, which is attached as Exhibit B;

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

WHEREAS, the Commission has determined in accordance with TWC, § 26.040(a)(1)-(4) that the General Permit would authorize dischargers who engage in

the same or substantially similar types of operations, discharge the same types of waste, are subject to the same requirements regarding effluent limitations or operating conditions, and are subject to the same or similar monitoring requirements;

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

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

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

THEREFORE, by this resolution, the Commission issues the General Permit and Response to Public Comment, attached as Exhibits A and B, respectively, as recommended by the executive director and as approved by the Commission during its March 3, 2016, 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 Signed:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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