

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS
AND EXPLANATION OF CHANGES**

This general permit is proposed under the authority found in Texas Water Code (TWC), §26.040. General Permit Number TXG340000 would renew authorization for surface discharges of facility wastewater, contact storm water, and storm water associated with industrial activities from petroleum bulk stations and terminals (PBSTs) into or adjacent to water in the state.

Prior to issuing a general permit, the Executive Director (ED) of the Texas Commission on Environmental Quality (commission or TCEQ) must comply with TWC, §26.040(d) and 30 Texas Administrative Code (TAC) §205.3(c). Both provisions require the ED to respond to all timely public comments that raise “relevant and material” or “significant” issues. The ED must make these responses publicly available and must file them with the commission’s Chief Clerk at least ten days before the TCEQ considers whether to approve the general permit. Accordingly, the ED now files this response to comments (Response) to address concerns raised by the public with regard to a proposed general permit under the Texas Pollutant Discharge Elimination System (TPDES). In certain instances, the general permit was revised in response to comments received.

The Executive Director's Response to Comments.

The Office of Chief Clerk received a timely letter from the Texas Oil and Gas Association (TxOGA). These public comments have prompted changes in the proposed general permit.

Comments and Responses

Comment No. 1: TxOGA requests that all references to Standard Industrial Classification (SIC) Code 5171 be deleted in the draft permit. TxOGA continues by stating that the original United States

Environmental Protection Agency general permit issued in 1984 did not include SIC Code 5171 and that it was incorrectly inserted into the permit by the TCEQ in the renewal. TxOGA believes that by referencing SIC Code 5171, the permit limits the applicability of the permit and inadvertently excludes petroleum storage and transfer facilities that do not operate under this SIC code.

Response No. 1: The ED agrees that the reference of SIC Code 5171 may limit the applicability of the permit and exclude facilities that do not operate under this SIC code. Therefore, the reference to SIC Code 5171 located on the cover page of the draft permit, included in the definition of Storm Water Associated with Industrial Activities, and located in Part II. Section A. Discharges Covered were removed from the permit. The draft permit was renoticed in the *Texas Register* on May 19, 2006 (31 TexReg 4258) and was republished in the *Houston Chronicle* on May 15, 2006. The public notice for the 1999 issuance of TXG340000 (63 FR 41848) states that the listing of petroleum bulk stations and terminals is not intended to be exhaustive, and that other types of entities not listed could also be regulated.

Comment No. 2: TxOGA commented that it appears that the TCEQ used the same monitoring parameters for lead and methyl tertiary butyl ether (MTBE) as found in TPDES General Permit TXG830000 for Petroleum Fuel and Petroleum Substances Discharges (remediation systems). TxOGA stated there are significant differences in the discharges from remediation systems and those from PBSTs. Remediation system discharges are continuous while discharges from PBSTs are intermittent. Also, remediation systems commonly have carbon or air stripper treatment prior to discharge, while PBSTs do not. Due to these differences TxOGA states that General Permit TXG340000 should not contain the same limitations for lead and MTBE as General Permit TXG830000.

TxOGA further commented that the lead limits should remain as they are in the existing permit, 0.25 milligrams per liter (mg/L), and that the MTBE limit should be “report only” to allow the industry to collect

data to demonstrate potential compliance or noncompliance with the proposed 0.24 mg/L MTBE limit. The report only requirement would give the facilities time to install controls if needed to meet the newly imposed MTBE limit.

Response No. 2: The addition of MTBE in this permit draft and the lower lead limits are based on an antidegradation review of TPDES General Permit TXG830000 by the TCEQ's Water Quality Standards Team. The team recommended a daily maximum limitation of 0.10 mg/L for total lead, except for counties in the Cypress, Sabine, and Neches River Basins. Due to the hardness value (which is used in the calculation of water quality limits) of the receiving streams in these basins, the recommended daily maximum limitation is 0.02 mg/L. The limitations for total lead were calculated using acute criteria which are based on intermittent low volume discharges and therefore, are applicable to the intermittent discharges expected from PBSTs.

The team also recommended a 0.24 mg/L MTBE effluent limit to protect human health and to meet the criteria for drinking water taste and odor. The more sensitive criteria of 0.015 mg/L for taste and odor was allowed a 12 to 1 dilution as would be expected with the allowable effluent fraction which represents the critical mixing zone for water bodies large enough to constitute a drinking water supply as described in the *The Procedures to Implement the Texas Surface Water Quality Standards* (RG-194 (Revised)) dated January 2003.

Because of the nature of the discharge from General Permit TXG340000, which is similar in nature to the discharge allowed by TXG830000, and the similarity in the constituents of concern expected to be found in both discharges, the limitation for MTBE was added to the draft permit and the lead limitation was revised.

Based on the addition of these limitations, the Water Quality Standards Team's review of draft General Permit TXG340000, states that "where permit requirements and storm water pollution prevention plans are

properly implemented no significant degradation is expected and existing uses will be maintained and protected.”

To address the comment that remediation systems commonly have carbon and/or air stripper treatment in place, a three-year compliance period, as allowed by 30 TAC §307.2(f), has been included for existing facilities to comply with the previously mentioned limitations for total lead and MTBE. The interim effluent limit for total lead will be 0.25 mg/L, the limitation in the existing permit. A report only requirement for MTBE will be required during the compliance period. An existing facility will be defined in the permit as a facility that was in operation prior to the issuance of this permit renewal.