

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXG830000 to discharge into or adjacent to water in the state.

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

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

Date: January 22, 2008

Permit Action: Amendment with Renewal of General Permit TXG830000

I. Summary

The Texas Commission on Environmental Quality (TCEQ) is proposing to amend and reissue a TPDES general permit authorizing discharges of water contaminated by petroleum fuel or petroleum substances. The general permit authorizes petroleum contaminated discharges from: groundwater pump tests; groundwater, surface water, and soil remediation activities; cleanup activities following spills that occur during transportation of petroleum fuel or petroleum substances; removal of water from underground and aboveground storage tank systems previously containing petroleum fuel or petroleum substances; removal of accumulated groundwater from excavation sites; and removal of accumulated water within utility and pipeline vaults.

II. Executive Director's Recommendation

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

III. Permit Applicability

- A. This general permit authorizes the discharge of water contaminated by petroleum fuel or petroleum substances. The permit specifies which facilities may be authorized under this general permit and those which must be authorized by individual permit.
- B. The following discharges are not eligible for general permit coverage:
 - (1) Discharges prohibited by 30 TAC, Chapter 311 (relating to Watershed Protection) and 30 TAC, Chapter 213 (relating to the Edwards Aquifer).
 - (2) Discharges of the constituent(s) of concern to impaired water bodies for which there is a total maximum daily load (TMDL) implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The executive director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual or other applicable general permit prior to discharging.

**Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000**

- (3) Discharges into or adjacent to water in the state from facilities that are regulated by the Railroad Commission of Texas, including crude oil facilities.
- (4) Discharges determined by the executive director that do not maintain existing uses of receiving waters.
- (5) 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.

C. Facilities that dispose of wastewater by any of the following practices are not required to obtain coverage under this general permit nor an individual wastewater permit:

- (1) Recycling of the wastewater with no resulting discharge into or adjacent to water in the state.
- (2) Pumping and hauling of the wastewater to an authorized disposal facility.
- (3) Discharge to a publicly owned treatment work (POTW).
- (4) Underground injection in accordance with 30 TAC Chapter 331.
- (5) Discharge to above ground storage tanks with no resulting discharge into or adjacent to water in the state

IV. Permit Effluent Limitations

A. Unless specifically exempted from the notice requirements under Part II, Section C.4. of the general permit, effluent discharged under the authority of this general permit must meet the following effluent limitations:

<u>Parameter</u>	<u>Daily Maximum Limitations</u>	<u>Daily Average Limitations</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Total Petroleum Hydrocarbons ¹	15 mg/l	15 mg/l	Grab	One/week ²
Total Lead ³	0.10 mg/l	0.10 mg/l	Grab	One/week ⁴
Total Lead ³	0.02 mg/L	0.02 mg/L	Grab	One/week ⁴
Benzene	0.005 mg/L ⁵	0.005 mg/L ⁵	Grab	One/week ²
Total BTEX ⁶	0.10 mg/L ⁵	0.10 mg/L ⁵	Grab	One/week ²
PAH ⁷	0.01 mg/L	0.01 mg/L	Grab	One/month ⁸
pH	6 - 9.0 Standard Units	N/A	Grab	One/week
MTBE ⁹	0.15 mg/L	0.15 mg/L	Grab	One/week ⁴

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

² The permittee may request that the monitoring frequency be revised from once per week to once every two weeks if the permittee can demonstrate historical compliance with the effluent limitation for at least six consecutive months. This request must be made in writing to the TCEQ's Industrial Team (MC-148)

Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000

and must include the sworn statement listed in Part III, Section A.3. of the general permit. If a subsequent noncompliance occurs, the monitoring frequency shall revert to once per week.

³ The daily maximum and daily average limitations for total lead are 0.02 mg/l for discharges located in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, or Wood. For the other counties in the state, the daily maximum and daily average limitations are 0.10 mg/l.

⁴ If the permittee certifies in the NOI that none of the materials handled or stored at the site contained lead, lead additives or MTBE, the monitoring frequency is once per year. The permittee may also request that the monitoring frequency be revised from once per week to once a month if the permittee demonstrates historical compliance with the effluent limitation for at least six consecutive months. This request must be made in writing to the TCEQ's Industrial Team (MC-148) and must include the sworn statement listed in Part III, Section A.3. of the general permit. If a subsequent noncompliance occurs, the monitoring frequency shall revert to once per week.

⁵ If petroleum fuel or petroleum substance contaminated water is land applied, without any discharge to water in the state, the daily maximum and daily average limitations for benzene are 0.05 mg/l and the daily maximum and daily average limitations for total BTEX are 0.5 mg/l.

⁶ BTEX shall be measured as the sum of benzene, toluene, ethylbenzene, and total xylenes.

⁷ Polynuclear aromatic hydrocarbons shall be measured as the sum of acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(ghi)perylene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, and pyrene.

⁸ The permittee may request that the monitoring frequency be revised from once per month to once every three months, if the permittee can demonstrate historical compliance with the effluent limitation for at least six consecutive months. This request must be made in writing to the TCEQ's Industrial Team (MC-148) and must include the sworn statement listed in Part III, Section A.3. of the general permit. If a subsequent noncompliance occurs, the monitoring frequency shall revert to once per week.

⁹ MTBE is methyl tertiary-butyl ether.

V. Changes From Existing General Permit

- A. The sampling frequency for pH was changed from once per day to once per week to be consistent with the sampling frequencies of the other parameters in the general permit. This general permit was first issued by the TCEQ on October 2, 2002 and no pH data was available for review at that time. A review of the pH data for 2005 (288 samples) showed only two exceedances (5.96 and 5.74), which justify a change in sampling frequency.
- B. Deleted the word subterranean from the definition of utility vault as these vaults may be located above ground.
- C. Added definitions for owner, operator, facility, land application, and permittee to clarify the requirements of the general permit and to be consistent with other TPDES general permits.

**Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000**

- D. Revised the language of the testing requirements for the determination of the presence of hydrocarbons in utility vaults for clarification of the methodology located in Part III, Section C. 1.
- E. Included language for endangered and threatened species regarding the limitation on coverage in Part II. Section B to be consistent with other TPDES general permits. This language lets permittees know that in addition to the general permit requirements, federal regulations regarding endangered or threatened species could require additional measures of protection or deny coverage under the general permit.
- F. Lowered the MTBE limitation to 0.15 mg/L to prevent water quality concerns regarding taste and odor.
- G. Included language to clarify to whom the permittee should submit the required information to resume discharging after an exceedence in PAH has occurred.
- H. Added an annual fee of \$500 to help cover the cost of the implementation of this general permit and to be consistent with other issued wastewater general permits.
- I. Included a definition for pipeline vaults and included requirements for discharges from pipelines vaults in Part III, Section C.

VI. Addresses

Comments on this proposed general permit should be sent to:

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

Questions concerning this draft general permit should be directed to:

Yvonna Pierce
TCEQ
Wastewater Permitting Section (MC-148)
Water Quality Division, MC 148
P.O. Box 13087 Austin, TX 78711-3087
(512) 239-6922

Supplementary information on this fact sheet is organized as follows:

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

Fact Sheet and Executive Director's Preliminary Decision TPDES General Permit No. TXG830000

VII. Legal Basis

Section 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC, §26.027 authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC, §26.040 provides the commission with authority to amend rules adopted under §26.040 prior to amendment of the statute by House Bill (HB) 1542 in 1997, 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 Texas Pollutant Discharge Elimination System (TPDES). 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. A provision of the agreement reached between the two agencies in the transfer of this authority requires the commission to either repeal or replace its authorizations by rule, or amend them, as necessary, to meet the requirements of the Clean Water Act, (CWA).

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

Two types of technology-based effluent limitations must be included in the general permit. With regard to conventional pollutants, i.e., pH, biochemical oxygen demand (BOD), oil and grease, total suspended solids (TSS), and fecal coliform bacteria, CWA, §301(b)(1)(E) requires effluent limitations based on “best conventional pollutant control technology” (BCT). With regard to nonconventional and toxic pollutants, CWA, §301(b)(2)(A), (C), and (D) requires effluent limitations based on “best available technology economically achievable” (BAT), a standard 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).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Until such guidelines are published, however, CWA, §402(a)(1) requires that appropriate BCT and BAT effluent limitations be included in permitting actions on the basis of its best professional judgment (BPJ). This general permit was previously issued on October 2, 2002.

VIII. Regulatory Background

The regulation of water contaminated by petroleum fuel or petroleum substances was initially through authorization by rule, 30 TAC, §321, Subchapter H (relating to Petroleum Contaminated Discharges). This rule was originally adopted with an effective date of May 9, 1989. The commission was given authority to issue general permits in place of authorizations by rule through legislation, HB 1542, passed during the 75th legislative session. Further clarification of this general permit authority was provided in subsequent legislation, HB 1283, passed during the 76th legislative session.

IX. Permit Coverage

The purpose of the general permit is to regulate the surface discharges of water contaminated by petroleum fuel or petroleum substances into or adjacent to water in the state. To obtain authorization to discharge under this general permit, an applicant will need to use the following guidelines.

Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000

- A. Unless specifically exempted from the notice requirements under Part II, Section C.4., applicants seeking authorization to discharge under this general permit must submit a completed Notice of Intent (NOI) on a form approved by the Executive Director. The NOI shall, at a minimum, include: the legal name and address of the owner and operator, the facility name and address, specific description of its location, type of facility or discharges, and the receiving waters.

- B. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. If the discharge is not located within ten stream miles upstream of the Edwards Aquifer recharge zone, provisional authorization to discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. The NOI must be submitted to the address indicated on the NOI form. If TCEQ provides for electronic submittal of NOIs during the term of this general permit, provisional authorization begins 24 hours following receipt of the electronic NOI form by the TCEQ unless restricted by Part II, Section C.3. 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. Applicants seeking authorization to discharge to a municipal separate storm sewer system must provide a copy of the NOI to the operator of the system at the same time an NOI is submitted to the TCEQ.

- C. For discharges located within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI to the appropriate TCEQ regional office. For discharges located in Medina, Bexar, Comal, Kinney, or Uvalde counties, a copy of the NOI must be sent to the San Antonio regional office. For discharges located in Hays, Travis, or Williamson counties, a copy of the NOI must be sent to the Austin regional office. For applicants seeking authorization to discharge within ten stream miles upstream of the Edwards Aquifer recharge zone, authorization begins when the applicant receives written confirmation from TCEQ.

- D. An NOI is not required if:
 - (1) The discharge is from a utility vault and the discharge is in compliance with the requirements and provisions of Part III, Section C of the general permit. The Executive Director considered the following in making this determination as required by 40 CFR 122.28(b)(2)(v):
 - (a) Type of discharge: The discharge would be the result of accumulated water within a utility vault.
 - (b) Expected nature of the discharge: The water discharged from a utility vault would primarily be rainfall runoff. Without the submission of an NOI, the permit would not allow a discharge to surface waters from a utility vault that contains hydrocarbon vapors or shows evidence of leaking oil-filled equipment. Also, the discharge must not contain free product, be considered "non-PCB" or have a PCB level not to exceed 0.002 mg/L PCB, and shall not contain a concentration of taste or odor producing substances that interfere with the production of potable water or interfere with the reasonable use of water in the state.
 - (c) Expected volume of the discharge: On a daily basis, the volume is expected to be negligible to nonexistent. During rainfall events the volume is dependent on the amount of rainfall.
 - (d) Other means of identifying discharges covered by this general permit: Each utility company can provide this information upon request.

Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000

- (e) Estimated number of discharges to be covered by the permit: Based on information provided by the Association of Electric Companies of Texas (AECT) there are thousands of utility vaults in the state that are eligible for discharge under this general permit.
- (2) All free product is removed and disposed of following state law, and the remaining contaminated water is routed to an existing TPDES permitted wastewater treatment system, disposed of under authorization of a Texas Land Application Permit (TLAP), underground injection in accordance with 30 TAC Chapter 331, or other approved disposal method.
- (3) The petroleum fuel or petroleum substance contaminated water is land applied at the site with no runoff to water in the state where:
 - (a) the volume to be land applied is 1,000 gallons or less during any quarter, and discharge limitations in Part III, Section A are satisfied based on either:
 - (i) results of laboratory analyses; or
 - (ii) written documentation demonstrating that the treatment system is properly operated and maintained and that the treatment efficiency is adequate to meet the effluent limits in the permit based on the intake concentrations; and
 - (b) the land application:
 - (i) complies with 16 TAC, Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers); or
 - (ii) is conducted at a minimum distance of 500 feet from all water wells; and
 - (c) the owner or operator maintains records to demonstrate compliance with the requirements of Part II, Section C.4(d).
- E. Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. The NOT and NOI must be submitted not later than 10 days before the change. Permittees discharging to a MS4 must submit a copy of the NOT to the operator of the system at the same time the NOT is submitted to the TCEQ.
- F. 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 a Notice of Change (NOC) within 14 days after discovery. If relevant information provided in the NOI changes (for example, phone number or P.O. Box number) an NOC must be submitted within 14 days of the change. Permittees discharging to a MS4 must submit a copy of any NOC to the operator of the system at the same time the NOC is submitted to the TCEQ.

X. Technology-Based Requirements

The limitations and conditions of the general permit have been developed to comply with the technology-based standards of the Clean Water Act. There are currently no nationally applicable guidelines identifying the BPT, BCT, and BAT standards, and the technology-based effluent limitations included in the general permit are based on BPJ. The parameters selected for BCT/BAT limits are the primary pollutants of concern for discharges authorized in the general permit. The limitations for these parameters are: 15 mg/L total petroleum hydrocarbons,

**Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000**

0.05 Benzene, 0.50 mg/L BTEX, 0.01 mg/L PAH, and between 6.0 to 9.0 standard units pH. These effluent limitations are economically achievable and are established at levels existing in the current TPDES General Permit TXG830000.

XI. Water Quality-Based Requirements

The Texas Surface Water Quality Standards found at 30 TAC, §307 state that “surface waters will not be toxic to man, or to terrestrial or aquatic life.” The methodology outlined in the “Procedures to Implement the Texas Surface Water Quality Standards” is designed to insure compliance with 30 TAC, §307. Specifically, the methodology is designed to insure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity data bases to determine the adequacy of technology-based permit limits and the need for additional water-quality based controls. A review by the TCEQ's Water Quality Standards Team determined that the proposed technology-based effluent limits are protective of water quality. Water quality based effluent limits for total lead and benzene are continued from the existing permit. The effluent limit for methyl tertiary-butyl ether (MTBE) was changed from 0.24 mg/L to 0.15 mg/L.

The daily maximum and daily average effluent limit of 0.100 mg/l for total lead was developed based on the protection for acute freshwater aquatic life toxicity in situations where little or no dilution occurs, and will help ensure that chronic criteria will be protected. Human health criteria is protected by the lead limit, since rapid dilution is expected for any discharges into waterbodies that are large enough to constitute a public drinking water supply or a sustainable fishery.

The daily maximum and daily average effluent limit of 0.02 mg/L for total lead was developed for discharges into the Cypress, Sabine, and Neches river basins. The basis for this decision was that these water basins contain water that is soft in comparison to others in the State of Texas and the limit of 0.10 mg/l would not be protective of the environment.

For the protection of human health and to protect drinking water taste and odor the limitation of 0.24 mg/L for MTBE has been lowered to 0.15 mg/L at the recommendation of the TCEQ's Water Quality Standards Team. An EPA fact sheet dated December 1997 (EPA-822-F-97-009) recommends that MTBE levels be below the range of 0.020-0.040 mg/L in order to protect consumer acceptance (taste and odor) of public drinking water sources. This range is about 20,000 to 100,000 times lower than the range of exposure levels in which cancer and noncancer effects were observed; therefore, protecting water sources from unpleasant taste and odor will also protect consumers from potential health effects. However, the fact sheet also notes that some individuals may still detect MTBE below 0.020mg/L. Because of this, it is recommended that MTBE levels be no greater than 0.015 mg/L at drinking water intakes. Given the fact that drinking water supplies constitute large water bodies which provide rapid dilution for small and intermittent discharges such as those which would be covered by this general permit, it is the Water Quality Standards Team recommendation that an MTBE limit of 0.15 mg/L be placed in the general permit.

Of the specific petroleum products of concern, the Texas Surface Water Quality Standards contain a numeric limit for benzene to protect human health. The applicable instream criteria are 0.005 mg/l for public drinking water sources, 0.106 mg/l to protect freshwater fisheries, and 0.0708 mg/l to protect saltwater fisheries. The general

**Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000**

permit specifies an effluent limit of 0.005 mg/l for benzene. This effluent limit is expected to meet water quality standards, including standards for drinking water sources.

The BTEX effluent limit of 0.1 mg/l remains protective of all BTEX constituents except for benzene when: (1) typical dilutions are assumed near the point of discharge for lakes and estuaries; (2) discharges are not large; or (3) discharges are not continuous. The numeric effluent limit for benzene is less than the maximum contaminant level (MCL) for this pollutant, and is also equal to the human health water quality standard for public drinking water sources.

The toxicity of BTEX is extremely variable and depends on the relative concentration of each constituent. Criteria which have been derived for individual BTEX constituents are as follows:

Chemical	Water and Fish Consumption	Freshwater		Saltwater	
		Aquatic Life Chronic	Sustainable Fisheries	Aquatic Life Chronic	Sustainable Fisheries
Benzene	0.005 ††	0.530 #	0.106 †	0.510 #	0.0708 †
Ethylbenzene	0.700 ††	1.090 §	29.000 ¶	0.249 §	29 ¶
Toluene	1.000 ††	1.450 §	28.952 ¶	0.475 §	19.301 ¶
Xylene	10.000 ††	1.340 §	No HH data	0.850 §	No HH data

† 30 TAC § 307, Table 3.

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

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

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

†† Minimum Concentration Level (MCL).

If the discharge is land applied, which does not allow any discharge to surface waters, the daily maximum and daily average limitations for benzene are 0.05 mg/l and the daily maximum and daily average limitations for total BTEX are 0.5 mg/l. These limitations are based on technology based BPJ limits as discussed in Section X. These limits are less stringent than the water quality based limitations above, which are based on human health criteria for direct discharge to surface waters.

In order to achieve compliance with Texas water quality standards, permittees must meet the following narrative water quality requirements:

- A. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- B. Concentration of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the waters, or otherwise interfere with the reasonable use of the water in the state.

Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000

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

The discharges authorized under this general permit are not typically continuous flowing discharges and the limitations for pollutants of concern in the permit should preclude toxicity instream. The concentrations (LC 50) of these pollutants that exhibit 50% mortality are less protective than the concentrations in the permit. The EPA's document, Quality Criteria for Water 1986 (EPA 440/5-86-001), also called the "Goldbook" list the aquatic life criterion for Benzene as 5.3 mg/L which is less protective than the 0.005 mg/L limit in the draft permit. Toxicity data compiled by the Water Quality Assessment Team shows LC 50s for sensitive freshwater species as 9.5 mg/L for toluene, 21.8 mg/L for ethylbenzene, and 5.9 mg/L for xylenes. The LC 50s for marine species are 9.5 mg/L for toluene, 5.0 mg/L for ethylbenzene, and 7.4 mg/L for xylenes. Therefore, the limits in the draft permit of 0.005 mg/L for benzene, and 0.1 mg/L for BTEX should preclude toxicity instream, so the 24-hour toxicity tests are not required by the general permit.

XII. Monitoring

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

- A. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.
- B. The sampling point must be downstream of any treatment unit or technique.
- 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 Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973).
- D. Sample containers, holding times, preservation methods, and analytical methods, shall either follow the requirements in 40 CFR Part 136 (as amended), or the latest edition of "Standard Methods for the Examination of Water and Wastewater."
- E. With the exception of analytical results from utility vaults that have not submitted an NOI and from discharges that are land applied, all analytical results shall be reported on a Discharge Monitoring Report (DMR) (EPA Form 3320-1). The analytical results must be submitted to the TCEQ's Enforcement Division (MC-224), on a quarterly basis, and the DMR must arrive by the 20th day in the months of April, July, October, and January. The self-report form for any given month shall be due for each discharge which is described by this permit whether or not a discharge is made for the month. If noncompliance with a discharge limitation occurs, the permittee shall provide notification according to Part III.B.9.

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 general permit before it is published in the Texas Register. According to 30 TAC, §205, when the draft general permit renewal and/or amendment is proposed, notice must be published, at a minimum, in a newspaper of general circulation. The commission may also publish notice in one or

**Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000**

more additional newspapers 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(s), 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 Administrative Procedure Act. The executive director may call and conduct public meetings in response to public comment.

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

XIV. Administrative Record

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

A. 40 CFR Citations

- 40 CFR §122
- 40 CFR §124
- 40 CFR §136

B. TCEQ Rules

30 TAC Chapters 39, 205, 281, 305, 307, 309, 319, 321, 331, and 335.

D. Letters/Memoranda/Records of Communication

Letter to Yvonna Pierce of the TCEQ's Industrial Permits Team from Center Point Energy received June 16, 2006.

Letter to Yvonna Pierce of the TCEQ's Industrial Permits Team from the Association of Electric Companies of Texas, Inc. dated May 24, 2006.

Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG830000

Letter to Yvonna Pierce of the TCEQ's Industrial Permits Team from Baker Botts L.L.P received April 26, 2006.

Memo from the TCEQ's Water Quality Standards Team dated January 5, 2007.

- E. TPDES General Permit TXG830000 for discharges from water contaminated by petroleum product.
- F. Miscellaneous

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.

"TCEQ Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.