

**FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
GENERAL PERMIT NO. WQG200000**

For proposed Texas Commission on Environmental Quality (TCEQ) General Permit No. WQG200000, to dispose of wastewater by evaporation or irrigation adjacent to water in the state.

Issuing Office: Texas Commission on Environmental Quality  
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Permit Action: Amendment with Renewal of General Permit WQG200000

**I. Summary**

The Texas Commission on Environmental Quality (TCEQ) is proposing to amend and reissue General Permit WQG200000, issued October 1, 2002, which authorizes the disposal of wastewater by evaporation or beneficial irrigation adjacent to water in the state from livestock manure compost operations. This general permit does not authorize discharge of waste into surface waters. The general permit specifies which facilities must obtain permit coverage, which are eligible for exclusion from permit requirements, and which may be required to obtain individual permit coverage.

**II. Executive Director's Recommendation**

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

**III. Permit Applicability**

A. This general permit authorizes the disposal of wastewater generated from livestock manure composting operations and processes, including livestock manure composted with exempt compost materials as defined in 30 TAC §332.3. Livestock manure is defined in the draft permit as manure (feces and urine), litter, bedding, or feed waste from animal feeding operations. This authorization is inclusive of any control facility, storage, or processing areas for livestock manure, compost material derived from livestock manure, livestock manure composted with exempt compost material, and storage of finished compost product.

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- B. The following are not eligible for general permit coverage.
- (1) No discharge is allowed into any surface water in the state. Discharge adjacent to water in the state by disposal of wastewater by irrigation or evaporation is allowed only under the conditions described in this permit.
  - (2) This general permit does not authorize the disposal of wastewater generated from livestock manure composting operations and processes which occur at a facility either permitted or otherwise authorized by the Commission as a concentrated animal feeding operation (CAFO). The discharge or disposal of wastewater occurring at these facilities must be authorized under a separate permit or authorization.
- C. Separate authorization may be required for discharges into or adjacent to water in the state, located within ten stream miles upstream of the Edwards Aquifer recharge zone, as defined in 30 Texas Administrative Code (TAC), Chapter 213 (relating to Edwards Aquifer).
- D. Facilities that recycle all wastewater, including storm water associated with industrial activities, back into the composting process, and that do not dispose of wastewater by land irrigation or evaporation, are not required to be authorized by this general permit.
- E. This general permit does not authorize the storage, processing, or disposal of solid waste, including livestock manure, compost, or exempt compost materials. It is the responsibility of any person conducting such activities to comply with any applicable requirements of the Commission, as described in 30 TAC Chapters 312, 330, 332, and 335 (relating to Sewage Sludge Use, Disposal, and Transportation, Municipal Solid Waste, Composting, and Industrial Solid Waste and Municipal Hazardous Waste, respectively).

**IV. Permit Limitations**

- A. Eligible facilities must develop and implement an Engineering Report that shall include the design of the wastewater disposal system, site drawings, information regarding any unusual geological formations, a soil survey, information regarding the ground water quality, and a closure plan.
- B. Permittees shall utilize a detailed engineering design analysis of limiting hydraulic and nutrient application rates and wastewater storage needs as the basis for retention and irrigation system design.
- C. All retention facilities shall be designed and constructed so as to prevent ground-water contamination.
- D. Soil samples shall be collected prior to commencing wastewater irrigation and annually thereafter. Wastewater shall not be applied to an area with an extractable phosphorus level of greater than 200 mg/kg.
- E. The wastewater shall be tested at the time irrigation is initiated and at a frequency of once every three months for 5-day biochemical oxygen demand, total nitrogen, and total phosphorus.

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**V. Changes From Existing General Permit**

- A. Corrected the sodium adsorption ratio (SAR) equation in the definition section. The revised equation is consistent with the SAR equation used in Texas Land Application Permits (TLAP).
- B. Provided addition requirements in Part II.E.3. for obtaining coverage under this general permit when the facility is authorized by an individual permit. These requirements are consistent for other wastewater general permits.
- C. Required the Engineering Report to be completed prior to the submission of the NOI and kept on site rather than submitted to the TCEQ 90 days after NOI submittal. This change is made for consistency with other general permits in that wastewater general permits have not required a technical review prior to issuance of authorization.
- D. Incorporated language throughout the general permit to notify applicants that examples of a water balance for irrigation and water storage for retention are available upon request. The existing Appendix I, a table from 30 TAC Chapter 309, was removed from the permit although the reference to TAC 30 §309.20 was continued. This change was made to provide the most current information to applicants.
- E. Revised the criteria for evaporation system design in Part III.B.2.(c) to be consistent with TLAPs.
- F. Changed test method for measuring phosphorus in soils to be consistent with the current test method widely accepted for soil testing in Texas.
- G. Defined the term expansion as relating to buffer zones in Part III. Section C.6.(e).
- H. Included language in Part III. Section C.6.(e)(4) stating that there must be at least a ¼ of a mile buffer between a wastewater retention facility and any occupied residence or business structure, school (including recreational areas), permanent structure containing a place of worship, or public parks unless the facility receives written consent from the affected landowner or an odor control plan is developed and implemented. This change was included to offer flexibility to facilities which may have storm water retention ponds near property boundaries.
- I. Included language in Part II, Section B.9 to clarify that the General Permit could be amended or an individual permit required in response to the administration of a TMDL or implementation plan, if necessary.

**VI. Addresses**

Questions concerning this draft general permit by rule should be directed to:

Ms. Yvonna Miramontes  
Wastewater Permitting Section (MC-148)  
TCEQ  
P.O. Box 13087

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Austin, TX 78711-3087  
(512) 239- 6922

Comments regarding this proposed draft general permit should be sent to:

Chief Clerk's Office (MC-105)  
TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087

Supplementary information on this Fact Sheet is organized as follows:

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

**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, and §26.040 provides the Commission with authority to develop and issue general permits.

The TCEQ developed regulations in 30 TAC Chapter 205, which form the basis for development of general permits. Chapter 205 describes when it is permissible to issue a general permit, the procedural requirements for the involvement of the public in the permitting process, how qualified dischargers can obtain authorization under a general permit, the manner in which permit terms are developed, how general permits are amended or renewed, and the fees that are assessed on dischargers authorized under the permit.

This permit is proposed under state authority and is not a Texas Pollutant Discharge Elimination System (TPDES) permit, since the permit would not authorize any discharge into waters of the United States as defined under the federal Clean Water Act (CWA) and National Pollutant Discharge Elimination System (NPDES) requirements.

Neither national nor state guidelines establishing technology-based effluent limits have been promulgated for composting operations which dispose of waste adjacent to water in the state. Due to the lack of federal guidelines, the requirements for these discharges have, therefore, been established using best professional judgment.

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**VIII. Regulatory Background**

The TCEQ adopted a general permit for disposal of wastewater from manure compost facilities that expired on October 1, 2007. The executive director now proposes, with the reissuance of this proposed general permit, to continue to authorize these eligible discharges under TCEQ General Permit No. WQG200000.

Consistent with 30 TAC §205.2, issuance of this permit is allowable, since qualifying composting operations engage in substantially similar operations and would discharge the same type of waste. The general permit, if issued, would establish the same operating conditions and similar monitoring requirements for these facilities. These types of discharges are more appropriately regulated under a general permit based upon the requirements of §205.2(a)(5), insomuch as the TCEQ can readily enforce the general permit and can monitor compliance of the terms of the permit. The permit would establish monitoring, record keeping, and reporting requirements. The permit also establishes requirements for the protection of underlying groundwater, prohibits any discharge into surface water, and thus, is not expected to result in an adverse effect on the quality of either resource.

**IX. Permit Coverage**

- A. All applicants seeking authorization to dispose of wastewater under this general permit must submit a completed Notice of Intent (NOI) on a form approved by the Executive Director. Existing discharges authorized under the expiring general permit are required to submit a new NOI within 90 days of issuance of the general permit to continue authorization. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name and address, the location of any disposal site, the type of disposal (evaporation or irrigation), description and size of the composting control facility, retention facility size, a description of the land to be irrigated, irrigated acreage, and the estimated irrigation application rate.
- 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. Provisional authorization to dispose of wastewater under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. If the TCEQ provides for electronic submission of NOIs during the term of this permit, provisional authorization begins 24 hours following confirmation of receipt of the electronic NOI form by the TCEQ.
- C. 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. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company. The NOT and NOI must be submitted no later than 10 days prior to the changes to avoid a lapse in authorization for the facility.
- D. If the owner or operator becomes aware that they submitted incorrect information in an NOI or that information provided in the NOI changes (for example, phone number or P.O. Box number), the correct information must be provided to the Executive Director in a Notice of Change (NOC)

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within 14 days after discovery. An NOC is not applicable for changes in ownership, operator, or a change in the site location. For these types of changes, a NOT and a new NOI must be submitted.

- E. A permittee may voluntarily terminate coverage under this general permit through submittal of a NOT, on a form approved by the executive director, when the owner or operator of the facility changes, the site location changes, the disposal becomes unnecessary, is delayed, is authorized under an individual permit, or is completed. Authorization to dispose of wastes terminates at midnight on the day that an NOT is postmarked for delivery. An NOT must be submitted within 14 days after the facility ceases discharging, obtains coverage under an individual permit, obtains coverage under an alternative general permit, or transfers ownership or responsibility of the facility.
- H. The Executive Director may deny authorization under this general permit, as described under 30 TAC §205.4(c). Discharges eligible for authorization by this general permit may alternatively be authorized by an individual permit according to 30 TAC Chapter 305 (relating to Consolidated Permits). When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall submit a notice of termination (NOT) to the Executive Director. The authorization under this general permit will be terminated when the Executive Director receives the NOT.
- I. 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. Suspension of a permittee's authorization under this general permit shall be done according to commission rules in 30 TAC, Chapter 205 (relating to General Permits for Waste Discharges).

**X. Technology-Based Requirements**

The regulations promulgated in Title 40 of the Code of Federal Regulations which require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines do not apply to this general permit which only allows for the disposal of wastewater by irrigation or evaporation.

**XI. Water Quality-Based Requirements**

The Texas Surface Water Quality Standards found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man from ingestion of water, consumption of organic organisms, or contact with the skin, or to terrestrial or aquatic life". This general permit does not authorize a discharge into surface waters in the state, therefore no water quality based requirements for the protection of surface waters are proposed. The permit does however require provisions to prevent runoff of excessive concentrations of phosphorus from soils irrigated with wastewater. Phosphorus has been identified as the limiting nutrient in both the North Bosque River (Segment 1226) and the Upper North Bosque River (Segment 1255) and a Total Maximum Daily Load (TMDL) has been developed for these locations. Permit Provisions in Part III. Section C, require that the permittee conduct annual soil testing, submit the results to the TCEQ, and not apply wastewater to an irrigation area with excess phosphorus concentrations. Permit conditions also require the permittee to evaluate the ability to comply with all

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conditions of the general permit, without the use of wastewater irrigation in the affected area.

**XII. Requirements for the Protection of Groundwater**

- A. The permittee shall notify the appropriate TCEQ regional office at least 48 hours before putting into operation any new or replacement retention facility.
- B. The permittee shall notify the appropriate TCEQ regional office at least 48 hours before the initial operation of any irrigation system.
- C. The permittee shall develop a technical report certified by Texas licensed professional engineer, which outlines the design of the wastewater system to ensure that adequate capacity exists for the storage of wastewater and the application of wastewater via irrigation is at the appropriate agronomic rate.
- D. All retention facilities must be constructed with compacted soil or acceptable synthetic membrane linings.
- E. A closure plan must be included in the technical report which describes the actions that will be taken to ensure that all wastes will be removed or cleaned up after the closure of the facility.
- F. The wastewater irrigation system must be designed to prevent an organic material loading to the soil of greater than 100 pounds/acre/day.
- G. Annual soil testing of land application areas must be conducted to prevent undesirable buildup of nitrogen and phosphorus levels on agricultural fields while also aiding the permittee in the optimal management of a cover crop.
- H. Quarterly analysis of wastewater effluent is required for 5-day biochemical oxygen demand, total nitrogen and total phosphorus.
- I. Permittee is required to maintain records of irrigation.
- J. Permittee must maintain and repair any damage to a retention facility liner.

**XIII. Procedures for Final Decision**

30 TAC Chapter 205 requires that when a draft general permit is proposed, notice must be published in the *Texas Register* and in at least one newspaper in the state with statewide or regional circulation. The commission may also publish notice in additional newspapers of statewide or regional circulation. Notice must also be provided to the following:

- A. the county judge of the county or counties in which the discharges under the general permit could be located;
- B. persons on a relevant mailing list kept under 30 TAC §39.407, relating to Mailing Lists; and

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C. any other person the executive director or chief clerk may elect to include.

The public will have 30 days to provide public comment on the proposed general permit.

Any person, agency, or association may make a request for a public meeting on the proposed general permit before the end of the public comment period. A public meeting will be granted when the executive director or commission determines, on the basis or requests, that a significant degree of public interest in the draft general permit exists. A public meeting is intended for the taking of public comment, and is not a contested case proceeding under the administrative Procedure Act.

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

**XIV. Administrative Record**

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

A. Permits and Authorizations

30 TAC Chapter 321, Subchapter B (relating to Concentrated Animal Feeding Operations)  
Existing General Permit No. WQG200000.

B. Rules

30 TAC Chapters 50, 205, 305, 309, 312, and 332  
TWC §§ 5.103, 5.105, 26.001, 26.027, 26.040, and 26.121  
Texas Health and Safety Code §§361.017 and 361.024

C. Miscellaneous

Status Report: Implementing Total Maximum Daily Loads in Texas; October 2006.