

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS
AND EXPLANATION OF CHANGES ON GENERAL PERMIT NO. TXG110000**

This general permit is proposed under the authority found in Texas Water Code (TWC), §26.040.

General Permit Number TXG110000 would authorize discharges of facility wastewater and storm water associated with industrial activities from ready-mixed concrete plants, concrete products plants, and their associated facilities into or adjacent to waters 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 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.

In addition, the ED has made an additional change to the general permit. This change is intended to clarify provisions in the general permit, to refer to other current regulatory requirements, and to provide consistency within the general permit and with other state and federal regulations.

The Executive Director's Response to Comments

The Office of Chief Clerk received timely letters from the following entities: Resource Management Associates, Inc. (RMA), TXI Operations, L.P. (TXI), Thompson & Knight LLP, and Zachry Construction Corporation (ZCC). Some of these public comments have prompted changes in the proposed general permit while others have not.

Comments and Responses

Comment Number 1: RMA commented that the critical distinction between what is meant by “contact storm water” and “storm water associated with industrial activities” is unclear and should be clarified in the permit. They state that the terms “storm water associated with industrial activity” and process water are generally used by the United States Environmental Protection Agency (EPA) and by other states. The federal definition of “storm water associated with industrial activity” specifically includes storm water that has come into contact with any raw material, product, by-product, co-product, intermediate, or waste material which is the definition in the draft permit for “contact storm water.” RMA requested that a distinction be made between “contact storm water” and “storm water associated with industrial activities.”

TXI also commented that the definitions of “contact storm water” and “storm water” seem to overlap and are confusing. They request that the permit clarify, for monitoring purposes, that “contact storm water” is a type of storm water and should be monitored as such, or request that the definition for “contact storm water” be removed.

Response Number 1: The term “contact storm water” was carried over from the current TXG110000 permit. The TCEQ agrees that the definition of “storm water discharge associated with industrial activities” found in the federal regulations at 40 Code of Federal Regulations §122.26(b)(14) includes “contact storm water” as defined in the draft permit. The term “contact storm water” will be deleted

throughout the proposed permit and replaced with “storm water discharge associated with industrial activities” which will be used in reference to storm water discharges authorized by this general permit.

The new definition for storm water associated with industrial activities reads as follows:

“Storm water discharge associated with industrial activities - The discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term includes but is not limited to, storm water discharges from storage areas for raw materials and intermediate and final products, and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. The term excludes areas located on plant lands separate from the plant’s industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.”

Comment Number 2: RMA commented that the permit is not technically accurate in terms of how the concrete industry operates. They state that typically process wastewater and storm water can be separated, as is the trend within the concrete industry. Relatively few operations within the concrete industry discharge commingled storm water and process wastewater. They request that a clear distinction between storm water discharges and process wastewater be made and that a clearly defined set of effluent limits be set for process wastewater/commingled discharges and a second set for storm water discharges. For storm water discharges, they recommend benchmark values in-line with the TPDES Multi-Sector General Permit, General Permit Number TXR050000. They state that the current draft is very problematic for the industry in regards to storm water discharges and that without separate sets of discharge standards for process and storm water discharges, the draft permit implies that all discharges are commingled, which is not the case.

TXI also requested a separate set of limits for outfalls that discharge facility wastewater and outfalls that discharge storm water associated with industrial activities. They commented that the proposed TXG110000 General Permit provides only one set of numeric limitations for all defined types of discharges, which is not consistent with most state’s National Pollutant Discharge Elimination System (NPDES) general permits for ready-mixed concrete facilities. TXI requested an additional set of numeric

limits, similar to those in TXR050000, for storm water outfalls in the proposed TXG110000. According to TXI, the additional set of numeric limits, unique to storm water only outfalls, would offer a long term facility design strategy that could be implemented more cost effectively and facilitate industry compliance with existing state regulations for storm water only outfalls.

Response Number 2: General Permit TXR050000 was developed to regulate storm water discharges from industrial facilities. The permit currently allows concrete facilities to obtain coverage for storm water only discharges with the requested monitoring requirements. However, TXR050000 also states that coverage may not be allowed under specific conditions. If concrete facilities covered by the requirements of this general permit segregate the storm water from process wastewater discharges, then it is appropriate to require separate discharge requirements in order to maintain consistency with TXR050000 and other state approved storm water general permits. This general permit has been revised to include quarterly benchmark monitoring requirements for storm water only discharges. The numeric effluent limitations for facility wastewater and facility wastewater commingled with storm water discharges will remain as written in the draft general permit. The parameters to be sampled for the benchmark monitoring requirements for storm water only discharges are total suspended solids, pH, oil and grease, and total iron.

Part III, Permit Requirements, Section A, has been revised as follows:

Part III. Permit Requirements

Section A. Facility Wastewater and Facility Wastewater Commingled with Storm Water Associated with Industrial Activity.

Eligible discharges of facility wastewater and facility wastewater commingled with storm water associated with industrial activity are subject to the following numeric effluent limitations:

<u>Parameter</u>	<u>Daily Maximum Limitations</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
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Flow	Report MGD	Estimate	1/month*
Oil and Grease	15 mg/L	Grab	1/month*
Total Suspended Solids	65 mg/L	Grab	1/month*
pH	6.0-9.0 Std. Units	Grab	1/month*

When discharging.

<u>Parameter</u>	<u>Monthly Average Limitations</u>	<u>Daily Maximum Single Grab Limitation</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Arsenic, total	0.1 mg/L	0.3 mg/L	Grab	1/year
Barium, total	1.0 mg/L	4.0 mg/L	Grab	1/year
Cadmium, total (inland waters)	0.05 mg/L	0.2 mg/L	Grab	1/year
Cadmium, total (tidal waters)	0.1 mg/L	0.3 mg/L	Grab	1/year
Chromium, total	0.5 mg/L	5.0 mg/L	Grab	1/year
Copper, total	0.5 mg/L	2.0 mg/L	Grab	1/year
Lead, total	0.5 mg/L	1.5 mg/L	Grab	1/year
Manganese, total	1.0 mg/L	3.0 mg/L	Grab	1/year
Mercury, total	0.005 mg/L	0.01 mg/L	Grab	1/year
Nickel, total	1.0 mg/L	3.0 mg/L	Grab	1/year
Selenium, total (inland waters)	0.05 mg/L	0.2 mg/L	Grab	1/year
Selenium, total (tidal waters)	0.1 mg/L	0.3 mg/L	Grab	1/year
Silver, total	0.05 mg/L	0.2 mg/L	Grab	1/year
Zinc, total	1.0 mg/L	6.0 mg/L	Grab	1/year

When discharging.

Samples must be collected at a point immediately following discharge from the outfall and prior to commingling with the receiving water.

Section B. Storm Water Discharge Associated with Industrial Activity

1. Discharges of storm water associated with industrial activity where not commingled with facility wastewater are subject to the following benchmark monitoring values:

Benchmark Parameter

Benchmark Value

Oil and Grease	15 mg/L
Total Suspended Solids	100 mg/L
pH	6.0 - 9.0 Standard Units
Total Iron	1.0 mg/L

2. Sampling is required on a quarterly basis and shall be conducted during the following periods: first quarter - January through March; second quarter - April through June; third quarter - July through September; and fourth quarter - October through December. Applicants shall begin sampling in the first full quarter following submission of the NOI {notice of intent}. If a facility maintains an inactive status for an entire quarter, quarterly sampling may be waived. A facility must be inactive with no industrial materials or activities exposed to storm water to exercise this waiver. A certification must be maintained with your SWP3 {storm water pollution prevention plan} stating that the site is inactive. The certification must be signed according to 30 TAC Section 305.128 (relating to Consolidated Permits).
3. All storm water samples shall be collected from the discharge resulting from a storm event that is at least 0.1 inches of measured precipitation that occurs at least 72 hours from the previously measurable storm event.
4. A minimum of one grab sample shall be taken within the first 30 minutes of discharge. If it is not practicable to take the sample, or to complete the sampling, within the first 30 minutes, sampling must be completed within the first hour of discharge. If sampling is not completed within the first 30 minutes of discharge, the reason must be documented and attached to all required reports and records of the sampling activity.
5. The permittee must compare the results of sample analyses to the benchmark values above, and must include this comparison in the overall assessment of the SWP3s effectiveness. Analytical results that exceed a benchmark value are not a violation of this permit, as these values are not numeric effluent limitations. Results of analyses are indicators that the SWP3 should be assessed and modifications may be necessary to protect water quality. The Pollution Prevention Team must investigate the cause for each exceedance and must document the results of this investigation in the SWP3 by the end of the quarter following the sampling event.

The Pollution Prevention Team investigation must identify the following:

- (a) any additional potential sources of pollution, such as spills that might have occurred,
- (b) necessary revisions to the Good Housekeeping Measures section of the SWP3,
- (c) additional BMPs {best management practices}, including a schedule to install or implement the BMPs,
- (d) identification of other parts of the SWP3 that may require revisions in order to meet the goal of the benchmark values.

Background concentrations of specific pollutants may also be considered during the investigation. If the Pollution Prevention Team is able to relate the cause of the exceedance to background concentrations, then subsequent exceedances of benchmark values for that pollutant may be resolved by referencing earlier findings in the SWP3. Background concentrations may be identified by laboratory analyses of samples of storm water runoff to the permitted facility, by laboratory analyses of samples of storm water runoff from adjacent non-industrial areas, or by identifying the pollutant is a naturally occurring material in soils at the site.

6. A permitted facility with an inactive status, must provide written notification to the TCEQ's

Industrial Permits Team (MC-148) and the appropriate regional office. Following this notification, permit requirements to sample, inspect, examine, or otherwise monitor storm water discharges are waived during the period that a facility maintains inactive status. A facility must be inactive with no industrial materials or activities exposed to storm water to exercise this waiver. A certification must be maintained with your SWP3 stating that the site is inactive. The certificate must be signed according to 30 TAC Section 305.128 (relating to Consolidated Permits).

Inactive facilities must notify the executive director in writing at least 30 days before commencing industrial activities and transferring to active status. Inactive status does not apply to facility wastewater or facility wastewater commingled with storm water discharges associated with industrial activities.

Comment Number 3: TXI requested that the sampling frequency for storm water only discharges be changed to quarterly to be consistent with the regulatory requirements of storm water sampling of TXR050000.

Response Number 3. As discussed in Response 2 of this document, Part III, Section B.2 of the general permit now states that the frequency of storm water monitoring shall be once per quarter for all parameters.

Comment Number 4: TXI states that they were unable to find another state that requires annual Whole Effluent Toxicity (WET) testing or 24-hour acute biomonitoring for this industry as does this general permit draft. They commented that during the 1998 comment period for the first issuance of this permit, the Texas Natural Resource Conservation Commission (TNRCC) (presently known as the TCEQ) and the Texas Aggregates and Concrete Association (TACA) made comments to the EPA on the issue of WET testing. TXI comments that the TNRCC and the TACA stated, in 1998, that the WET testing requirements are more stringent than the TNRCC requirements which say the discharge shall not be acutely toxic but do not require toxicity testing to demonstrate compliance with the provision. The EPA replied that the basis for the toxicity limit is Texas Water Quality Standards (30 TAC §307.6(e)(2)(B)) and that they are required under 40 CFR §122.44(d) and 40 CFR §122.44(i) to include the monitoring limits and requirements in the permit. TXI requested that “the TCEQ reiterate the argument that WET

testing is an expensive and onerous requirement that was clearly not intended for operations authorized under this permit.”

Response Number 4: To be consistent with the requirements of the Multi-Sector Storm Water Permit, General Permit Number TXR050000, the draft general permit has been revised to exempt storm water only outfalls from WET testing. Although this general permit is not required to have WET testing for facility wastewater outfalls and it would not be typical for individual permits where detailed applications with data are submitted for this type of discharge, WET testing can be used as a good indicator of toxicity for this permit. Therefore, WET testing will continue to be required for facility wastewater outfalls.

Comment Number 5: TXI commented that Part III. B.2. of the draft general permit states that if storm water outfalls have been demonstrated to be substantially the same, sampling and monitoring may be conducted at one of the outfalls. TXI requested that facility wastewater outfalls which meet the same necessary criteria to be deemed substantially similar be given reduced monitoring requirements, as do the storm water outfalls in the draft permit.

Response Number 5: Reduced monitoring for substantially similar storm water dischargers is allowed in the general permit due to best management practices (BMPs) and other requirements of the storm water pollution prevention plan (SWP3). The discharge of facility wastewater does not include such controls and requirements, and it is not the practice of the TCEQ to allow reduced sampling of substantially similar facility wastewater dischargers in individual permits. Facility wastewater has a greater potential to discharge pollutants which can in turn adversely affect aquatic life or human health. Therefore, no changes were made to the general permit based on this comment.

Comment Number 6: TXI requested language be added to the permit to define situations which would exempt the collection of an effluent sample if a rainfall event takes place while the plant is not in

operation, or when there are safety issues such as severe weather events. TXI commented that they have contacted the TCEQ regional offices in the past regarding these issues, but it would be beneficial to TXI and the TCEQ to explicitly define in the permit what discharge a permittee is excused from sampling.

Response Number 6: Due to the separation of storm water only discharges from facility wastewater discharges as discussed in Response 2 of this document, the requested language is beneficial to both the permittee and the TCEQ regional offices. Therefore, based on the request from TXI, the following language has been added to the general permit in Part III, Section I. 8:

“Requirements to sample, inspect, examine or otherwise monitor storm water discharges within a prescribed monitoring period may be temporarily suspended for adverse weather conditions. Adverse weather conditions are conditions that are either dangerous to personnel (e.g., high wind, excessive lightning) or weather conditions that prohibit access to a discharge (e.g., flooding, freezing conditions, extended periods of drought). Adverse conditions that result in the temporary suspension of a permit requirement to sample, inspect, examine, or otherwise monitor storm water discharges must be documented and included as part of the SWP3. Documentation shall include the date, time, names of personnel that witnessed the adverse condition, and the nature of the adverse condition.”

In addition, as stated in the response to Comment 2, Part III, Section B.2, if a facility remains inactive for an entire quarter, quarterly sampling may be waived for storm water discharges associated with industrial activity. A facility must be inactive with no industrial materials or activities exposed to storm water to exercise this waiver.

Comment Number 7: Thompson and Knight LLP, commented that Part II, B.1 stating that a “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” is defective. They state that it is vague and unclear whether the statement requires additional requirements under Chapter 213 or an individual permit. They assert that there must be a legal standard by which a permittee may determine whether it is eligible for this permit. According to this commenter, this is necessary to avoid an applicant filing an application and beginning operations only to find out that the agency determines by unpublished criteria

that the permittee's operations are not properly authorized.

Thompson and Knight further commented that the provision applicable to facilities located “ten stream miles upstream of the Edwards Aquifer Recharge Zone” is vague and unenforceable because it does not provide adequate notice of which facilities are subject to the standard. They also stated that there does not appear to be statutory or regulatory authority to impose additional controls in this area, which appears greater in scope than the Edward’s Aquifer Recharge and Contributing Zones. In another related comment, Thompson and Knight LLP commented that Part II, C.3 in the permit establishes additional notice of intent (NOI) submittal requirements for discharges located within ten miles upstream of the Edwards Aquifer Recharge Zone, and is defective because it fails to provide adequate notice of which facilities are subject to the standard.

Response Number 7: The ED declines to make changes based upon Comment 7. The agency’s rules relating to the Edwards Aquifer are found in 30 TAC Chapter 213. Chapter 213 regulates certain activities and requires the submission of various plans for the ED’s approval (30 TAC §213.4 and §213.23). In addition, §213.6(c)(4) sets out the requirements for existing and new industrial discharges within ten stream miles upstream of the recharge zone. For these reasons, the general permit informs potential permittees that Chapter 213 may have other regulations applicable to the discharge and may require additional authorizations.

Part II, B.1 establishes a legal standard by which a permittee may determine eligibility to discharge under this general permit. As stated previously, Part II, B.1 refers potential permittees to Chapter 213 if they proposed to discharge into or adjacent to water in the state within ten stream miles of the recharge zone of the Edwards Aquifer. It is the permittee’s responsibility to review Chapter 213 and the location of the discharge to determine whether its proposed activity will trigger other regulatory provisions.

Furthermore, the ten stream mile standard set out in the general permit is not vague and unenforceable and is currently used in the regulation of activities under Chapter 213. The ten stream miles standard was established through the rulemaking process for use in determining regulatory requirements under Chapter 213. For example, §213.6(c)(4) addresses industrial discharges “within zero to ten (0 to 10) miles upstream of the recharge zone . . .” Also, “{t}he recharge zone is identified as that area designated on official maps located in the agency’s central office and in the appropriate regional office.” (30 TAC §213.3(27)). Therefore, the ten stream mile standard is not vague and unenforceable.

Thompson & Knight also commented that since Part II, C.3 relies on the ten stream mile standard, it is also defective for failing to provide adequate notice of which facilities are subject to the standard. As stated previously, the ten stream mile standard is not vague and unenforceable and is established through the agency rulemaking process. Potential permittees may consult with agency maps in the central and applicable regional offices to determine whether the permittee needs to submit an NOI to the TCEQ regional office as required by Part II.C.3.

Comment Number 8: ZCC commented that the definition of “Associated Facilities” is unclear and they would like the general permit to clarify the use of the term. They requested that the commission add Standard Industrial Classification (SIC) Code 1629 to the permit to include construction equipment. This addition would cover concrete plants that are owned and operated by a construction company to be used on construction project sites.

Response Number 8: The ED agrees that SIC Code 1629, “Heavy Construction, Not Elsewhere Classified” could be an associated facility covered by this general permit but other types of discharges associated with this SIC code should not be covered. The ED also acknowledges that both SIC Codes 3271 and 3272 are covered by the general permit and that contractors engaged in concrete construction work are classified in Division C, “Construction,” which contains SIC Code 1629. Therefore, the ED

agrees that SIC Codes 3271, 3272, and 3273 are not exhaustive, and that other types of SIC codes not listed are also regulated under this general permit. The fact sheet has been revised to clarify that other entities not listed under these SIC codes are covered by this general permit. The change can be found in Section I. Summary and reads as follows in its entirety:

“The Texas Commission on Environmental Quality (TCEQ) is proposing to reissue a general permit authorizing discharges of facility wastewater and storm water associated with industrial activities into or adjacent to water in the state from ready-mixed concrete plants, concrete products plants, and their associated facilities (SIC 3271, 3272, and 3273). The permit specifies which facilities are authorized under this general permit and those which must obtain an individual permit. If an entity wants authorization under this general permit but does not fall under SIC Codes 3271, 3272 or 3273 (for example, SIC Code 1629), it may contact the TCEQ’s Storm Water and Pretreatment Team regarding the applicability of the permit for their facility.”

Comment Number 9: ZCC commented on language in Part II, C.1 and C.2 regarding when an applicant is authorized to begin discharging. ZCC stated that the language regarding the submittal of an NOI “30 days before beginning discharge” in C.1 and the language regarding when a discharge may begin, “48 hours after a completed NOI is postmarked” in C.2 is confusing. They requested the language “30 days” be deleted or changed to 48 hours.

Response Number 9: The ED agrees with ZCC and has deleted the 30-day requirement which was continued from the existing permit. The general permit will continue to provide “48 hour provisional coverage.” Part II, Section C.1 now reads in its entirety:

“Facilities that seek to discharge or dispose of wastewater under authority of this general permit must submit a completed Notice of Intent (NOI) on a form approved by the executive director. The NOI must include, at a minimum, the legal name and address of the operator and owner, the facility name and address, the location of the discharge (including the street address, if applicable, and the county), the name of the receiving water, and a description of the facility(s) (ready-mixed concrete and/or concrete products plants, and associated facilities), and whether storm water associated with an industrial activity is discharged. Discharges authorized under the previously expired general permit (TXG110000, which expired on February 14, 2005) are required to submit a new NOI within 90 days of issuance of this general permit to continue authorization.

Discharges of wash out water from concrete trucks at off-site construction sites are not required to submit

an NOI for coverage under this general permit (See Part III, Section G).”

Comment Number 10: ZCC commented that a specific statement as to what sampling is required should be included in the permit. They recommended the following language be added to Part III, Section B.1 of the permit: “Sampling and testing of eligible discharges consisting of a single grab sample collected from a representative rain event once each month shall be performed.”

Response Number 10: Revisions have been made to Part III of the permit, as discussed in Response 2 of this document, which requires quarterly benchmark sampling and testing for storm water discharges associated with industrial activities. Therefore, no changes were made in response to this comment.

Comment Number 11: ZCC commented that language should be included in the permit to provide relief to permanent and temporary concrete plants from sampling and testing when: Plants are shut down, effluent from the plant would not be representative of an operation plant situation, and personnel are not on site to obtain samples. They recommended the following language be added to the permit: “Sampling and testing of permanent and portable concrete plants that are not in operation within one week prior to a representative rain event is not required.”

Response Number 11: When plants are shut down, the permit requires in Part II, Section D that a permittee shall terminate coverage through submittal of a notice of termination when, among other provisions, the discharge of wastewater becomes unnecessary, is delayed, or is completed. If the operator determines that the conditions for termination of the general permit are not required, the monthly Discharge Monitoring Report (DMR) should reflect no discharge during monthly periods when the plant is not in operation and facility wastewater was not discharged. The addition of Part III, Section B.6, discussed in Response 2, allows an inactive facility to temporarily waive sampling and testing requirements of storm water discharges as requested. A facility must be inactive with no industrial

materials or activities exposed to storm water to exercise this waiver.

Comment Number 12: ZCC recommended that the first sentence in Part III, Section B.1 be revised to read: “Monitoring, sampling, examinations, and inspections of eligible discharges that are required . . . is representative for local storm events for the sampling period.” They commented that it is not the intent of the permit to allow combined discharges.

Response Number 12: Amended Part III. Section B. “Monitoring at Substantially Similar Storm Water Outfalls” is specific for storm water discharges associated with industrial activities. The ED has determined that the current language is appropriate and no changes are made to the permit based on this comment.

Comment Number 13: ZCC recommended that a testing waiver be allowed if sample test results are consistently below the numeric effluent limits of the general permit. They recommended the following language be included in the general permit: “If sampling and testing results are consistently below numerical effluent limits over a period of 4 months, then a waiver may be obtain to reduce the frequency of sampling and testing to one grab sample each three months. A waiver may be obtained by providing written notification and copies of lab reports to the Director.”

Response Number 13: Due to variability of the constituents found in facility wastewater, the once per month monitoring frequency, continued from the existing permit, is appropriate for this type of wastewater. Should a facility authorized under this general permit conclude that less frequent monitoring is appropriate for their facility, they may submit an individual permit application justifying this request. The ED would review the proposed discharge and impacts on a site-specific basis. Therefore, the ED has determined that the current frequencies are not excessive and no changes were made to the general permit.

Comment Number 14: ZCC stated that a statement is needed that will make it clear to TCEQ enforcement personnel that concrete plants that do not discharge any storm water or process water are not required to have a TXG110000 permit. They requested the following language be added to the permit: “Ready-mix concrete plants and concrete products plants that do not discharge facility wastewater, contact storm water, or storm water as a result of on-site containment, are not required to have coverage under this General Permit.”

Response Number 14: The permit states in Part II, Section A.1 that the purpose of this general permit is to regulate the discharge of facility wastewater and storm water associated with industrial activities from ready-mixed concrete plants, concrete products plants, and their associated facilities (SIC 3271, 3272, and 3273). Regional inspectors and enforcement personnel are familiar with the requirements of the general permit and trained to recognize permit applicability. Also, Part III, C of the fact sheet for this draft general permit states that facilities that dispose of wastewater and/or storm water by recycling, pumping and hauling, discharge to a publicly owned treatment works (POTW), underground injection in accordance with 30 TAC Chapter 331, or discharge to aboveground storage tanks are not required to obtain coverage until this general permit. Therefore, no additional language was added to the permit as requested.

Comment Number 15: ZCC commented that being able to use water for dust suppression only when “the area specified is not in use” limits uses of water. ZCC cites that air permits for concrete plants require that dust be controlled on plant roads and that whether a plant is in operation should not be considered by this permit. They recommended that this part of Section F.2 should be deleted.

In conjunction with this comment, ZCC recommended the following language be added to the permit to prevent mud being tracked off site: “Best Management Practices will be used to prevent off site tracking of mud resulting from use of wastewater for dust control.”

Response Number 15: In response to the comment, Part III, Permit Requirements, Section G, Item 2 has been revised to read:

“Application of facility wastewater or storm water for soil compaction and irrigation shall be accomplished only when the area specified is not in use. This restriction does not apply to dust suppression activities. Using facility wastewater or storm water for dust suppression, soil compaction, and irrigation shall not occur during times when the ground is frozen, the ground has standing water, the ground is saturated, or within 24 hours of a rainfall event of 0.5 inches or greater during a 24-hour duration. Best management practices shall be used to prevent off site tracking of mud resulting from the use of wastewater or storm water for dust suppression.”

Comment Number 16: ZCC commented that the permit did not include a definition of where water can be used for dust control. They state that it would be advantageous to use wastewater and storm water collected from portable plants installed for and dedicated to supply concrete to construction projects, on the construction project. They recommend the following statement be added to the permit: “Wastewater may be used on construction project dust control where a portable concrete plant is set up to serve only that project. Use of water must meet the same requirements for use as dust control as is required for concrete plant sites.”

Response Number 16: Part III, Permit Requirements, Section G, Item 5 has been added to the permit.

This item reads in its entirety as follows:

“Treated facility wastewater and storm water may be used for dust control if collected from portable concrete plants installed and dedicated to supply concrete for a construction project. Dust suppression shall be carried out as a best management practice, not as a wastewater disposal method.”

Comment Number 17: ZCC commented that in Part III, G.2 the “word infiltration seems to imply water being filter {sic} or coming onto the site,” and recommended the word “ground absorption” be used instead. They also commented that “shallow pits” are not defined and that clarification is needed. They would also like the following language added to the permit: “Concrete trucks may be washed in unlined collection pits used by concrete plants to collect process waste and storm water.”

Response Number 17: The term “infiltration” is commonly used to describe the movement of water through the soil surface into the soil. No changes will be made to the permit regarding this term.

In regards to the comment that the term “shallow pits” is not defined and that clarification is needed, there is no standard definition for a shallow pit and the term is variable, based on site-specific circumstances.

A shallow pit may be a pit that can be excavated by heavy machinery, such as a bulldozer and should not intersect a shallow water table. No changes were made to the permit based on this comment.

Concrete truck wash water is considered facility wastewater and can be managed similar to other facility wastewater authorized in the permit. Part III, Section H.1 states that the “direct discharge of concrete truck wash out water to waters in the state, including discharge to storm sewers is prohibited by this general permit.” No changes were made to the permit based on this comment.

Other Changes to the General Permit

Change Number 1. The definition of “operator” has been changed and the definition of “owner” has been added. The general permit has also been revised throughout to include owner and operator as required by 30 TAC §305.43. These changes were also made to provide clarification throughout the general permit rather than rely solely on the definition of “operator” which included both the owner and operator. The definitions provide consistency with 30 TAC §305.2(24) and (26) and now read as follows:

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

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