

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

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

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

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Industrial Permits Team
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Date: March 22, 2010

Permit Action: Amendment with Renewal

I. Summary

The Texas Commission on Environmental Quality (TCEQ) is proposing to amend and reissue a general permit authorizing discharges into or adjacent to water in the state from concentrated aquatic animal production facilities and certain other aquatic animal production facilities that are engaged in the propagation or rearing of aquatic species through the use of ponds, lakes, fabricated tanks and raceways, or other similar structures. Permit eligibility is divided into four levels of authorization with each have specific regulatory requirements based on activity and size.

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 the permit be issued to expire five years from the effective date following the requirements of 30 TAC § 205.5(a).

III. Permit Applicability and Coverage

- A. Eligibility for authorization under this general permit is divided into four tiers: Level I, Level II, Level III, and Level IV.
1. Level I Authorization. Submittal of a Notice of Intent (NOI) for authorization is not required for discharges from the following aquaculture related activities. If discharge occurs, all other applicable provisions of the general permit apply. Operations meeting the following descriptions and criteria qualify for Level 1 authorization:

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- a. Retail bait dealers;
 - b. Discharges resulting from the production of crawfish in conjunction with rice farming;
 - c. Ponds used as "pay lakes";
 - d. Facilities that exclusively utilize closed ponds (see definition of closed ponds on Page 3 of this general permit);
 - e. Public and commercial aquariums and aquarium supplies;
 - f. Live fish hauling tanks;
 - g. Any aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight equal to or less than 10,000 pounds per year; and
 - h. Facilities which temporarily hold and do not feed aquatic species.
2. Level II. Aquatic animal production facilities that meet the following criteria and do not produce shrimp in the coastal zone or facilities that only dispose of wastewater via land application may apply for coverage under Level II. Submittal of an NOI is required for authorization.
- a. Produce cold water aquatic species in ponds, raceways, or other similar structures which:
 - (i) discharge less than 30 days per year; or
 - (ii) produce less than 20,000 pounds harvest-weight of aquatic species per year; and
 - (iii) feed less than 5,000 pounds of food during the calendar month of maximum feeding.
 - b. Produce warm water aquatic species in ponds, raceways, or other similar structures which:
 - (i) discharge less than 30 days per year; or
 - (ii) produce less than 100,000 pounds harvest-weight of aquatic species per year.
 - c. Dispose of wastewater by land application and do not discharge directly to surface water in the state.
3. Level III. Concentrated aquatic animal production facilities that meet or exceed the thresholds described below or shrimp research facilities located inside the coastal zone that meet the criteria described below may apply for coverage under Level III. Submittal of an NOI is required for authorization.
- a. Produces cold water aquatic species in ponds, raceways, or other similar structures that:
 - (i) discharge at least 30 days per year; and either
 - (ii) produce more than 20,000 pounds harvest-weight of aquatic species per year; or
 - (iii) feed 5,000 pounds or more of food during the calendar month of maximum feeding.
 - b. Produces warm water aquatic species in ponds, raceways, or other similar structures that:
 - (i) discharge at least 30 days per year; and
 - (ii) produce more than 100,000 pounds harvest-weight of aquatic species per year.
 - c. Shrimp research facilities within the coastal zone that:

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- (i) discharge less than 60 days per year;
 - (ii) discharge at a daily maximum flow rate of less than 5 million gallons per day; and
 - (iii) discharge at a total monthly flow volume less than 12.5 million gallons.
 4. Level IV. Concentrated aquatic animal production facilities that meet the thresholds of Level III and produce 100,000 pounds or more of aquatic animals per year in a flow-through system or recirculating system may apply for coverage under Level IV. Submittal of an NOI is required for authorization.
- B. The following discharges are not eligible for coverage under this general permit and must apply for an individual permit prior to discharge:
1. Any commercial facility producing shrimp species within the coastal zone which discharges to surface waters regardless of production or discharge quantity.
 2. Commercial shrimp facilities located within the coastal zone that conduct collaborative research with a shrimp research facility and discharge to surface waters.
 3. A facility discharging wastewater into a freshwater receiving water with a total dissolved solids (TDS) difference between the discharge and receiving waters greater than 500 mg/L.
 4. A facility discharging into an estuarine or marine receiving water with a salinity difference between the discharge and receiving water of greater than 2 parts per thousand (ppt).
 5. A facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight greater than 10,000 pounds.
 6. Discharges prohibited by 30 TAC Chapter 311 (relating to Watershed Protection), 30 TAC, Chapter 213 (relating to the Edwards Aquifer), and 31 TAC Chapter 57, Subchapter C (relating to Introduction of Fish, Shellfish, and Aquatic Plants).
 7. 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.
 8. Discharges associated with the processing of aquatic organisms by packing as fresh or frozen product, canning, smoking, salting, drying or other curing, and/or rendering for use as human or animal food.
 9. The discharge of domestic sewage into or adjacent to water in the state.
 10. The Executive Director will deny an application for authorization under this general permit, and may require that the applicant apply for an individual permit, if the Executive Director determines that the discharge will not maintain existing uses of receiving waters. Additionally, the Executive Director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit.

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11. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30 TAC Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standard(s) and are listed on the Clean Water Act (CWA) § 303(d) list. Constituents of concern are those for which the water body is listed as impaired.
 12. 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 the 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:
1. Recycling with no resulting discharge into or adjacent to water in the state.
 2. Pumping or hauling to an authorized disposal facility.
 3. Discharge to a publically owned treatment works (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. General Permit Effluent Limitations

- A. The following effluent limitations apply to all Level II, Level III and Level IV authorized facilities:

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

¹ Monitoring frequency for Level II Authorizations shall be once per six months except for flow monitoring which shall be conducted daily.

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

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

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Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Dissolved Oxygen	5.0 mg/l minimum	N/A	Composite ²	1/week
CBOD ₅	N/A	250 lbs/day	Grab	1/month
Ammonia Nitrogen	N/A	2.0 mg/l	Grab	1/month

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

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

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

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

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

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

V. Changes from the Existing Permit

1. In the Sampling Requirement section, an additional requirement was added to insure that all laboratory tests submitted to demonstrate compliance with this permit, meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.
2. The word “or” was added to the Level II authorization description for the production of cold water aquatic species to clarify that facilities that discharge less than 30 days **or** produce less than 20,000 lbs harvest-weight of aquatic species per year and feed less than 5,000 lbs of food during the calendar month of maximum feeding can be authorized under this level.
3. Revised the definition of aquatic species to clarify that algae is excluded as an aquatic species covered by this general permit.
4. Included Level IV Authorization to meet the requirements of 40 Code of Federal Regulations (CFR) Part 451, Concentrated Aquatic Animal Production Point Source Category.

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5. Added definitions for daily average limitations, discharge, facility, land application, MS4, flow-through systems, and recirculating system for permit clarification.
6. In regards to cages or enclosures placed within public waters the harvest weight was changed to "equal to or less than 10,000 lbs" rather than "20,000 lbs". This change was made to prevent excessive loading to lakes and reservoirs from feed and fecal waste and was recommended by the Texas Parks and Wildlife Department (TPWD).
7. At the request of the TPWD, 31 TAC, Chapter 57, Subchapter C (relating to Introduction of Fish, Shellfish and Aquatic Plants) was included under discharges not authorized in Part II.
8. In Part II, Section B. Limitations on Coverage, language was included regarding discharges to impaired waters and discharges that would adversely affect endangered and threatened species. This language is consistent with other TPDES wastewater general permits.
9. Included language stating that copies of notices of intent, termination, and change should also be sent to the Municipal Separate Storm Sewer System (MS4) if applicable.
10. At the request of the TPWD, language in the General Requirements Section regarding the notification of the use of compounds that have undergone review by the FDA and have been determined to be drugs of low regulatory priority was modified to state that no notice of use is required. It is not expected that these drugs will have an adverse effect upon the environment.
11. At the request of the TPWD, language in the General Requirements Section was added to require approval by the TPWD prior to the implementation of any action deemed necessary to prevent transmission of disease to aquatic life endemic to water in the state.
12. At the request of the TPWD, language was added to the Standard Requirements Section requiring that a discharger must give notice to the executive director **and the TPWD** before physical alterations or additions to the permitted facility if such alterations or additions would result in a violation of permit requirements.
13. Added language to the Reporting Requirements Section stating that discharge monitoring report (DMR) data may be submitted electronically through the NetDMR system.
14. Revised rule citations as needed based on rule changes and revisions.

VI. Addresses

Comments on this proposed general permit should be sent to:

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

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Questions concerning this draft general permit should be directed to:

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

VII. Legal Basis

§ 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 the authority to amend or adopt, as necessary to implement this section, rules adopted under § 26.040, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the TPDES program. The TCEQ and the EPA have signed a Memorandum of Agreement which authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program to the TCEQ as it applies to the State of Texas.

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

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

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

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VIII. Regulatory Background

The commission was given authority to issue general permits by HB 1542 that passed during the 75th legislative session. Further clarification of general permit authority was provided in subsequent legislation, HB 1283, passed during the 76th legislative session. As a result of this authority, and in accordance with a memorandum of agreement between the EPA and TCEQ relating directly to the TPDES permit program, the commission is seeking to reissue this general permit.

IX. Permit Coverage

- A. This general permit applies to discharges into or adjacent to water in the state from concentrated aquatic animal production facilities and certain other aquatic animal production facilities that are engaged in the propagation or rearing of aquatic species through the use of ponds, lakes, fabricated tanks and raceways, or other similar structures. Permit eligibility is divided into four levels of authorization, which each have different regulatory requirements based on activity, size, and systems used for production. The general permit specifies which particular facilities are eligible for authorization by the general permit and which must be authorized by individual permit. All commercial shrimp production facilities located within the defined coastal zone are required to obtain an individual TPDES permit as defined in the TWC § 26.0345. Shrimp research facilities in the coastal zone that are below the thresholds defined in the general permit are eligible for authorization under this general permit. The information developed by research facilities typically provide indirect support to commercial activities, and may be located in conjunction with a commercial facility. In such situations, the facility will be eligible for authorization under the general permit as long as the research is conducted by a separate facility. However, commercial facilities with a research arm do not meet the definition of a research facility.

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

- B. To obtain authorization to discharge under the proposed general permit, an applicant must meet the following guidelines:
1. Operations meeting the descriptions and criteria that qualify for Level I Authorization are not required to submit a NOI in order to be authorized under this general permit. Qualifying operations may, however, complete Attachment 1, Notice of Authorization, and utilize this notice as necessary to demonstrate authorization under the general permit.
 2. Applicants seeking authorization to discharge under Level II, III, or IV of this general permit must submit a completed NOI on a form approved by the executive director. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name and address, specific description of its location, (including the street address, if applicable, and county), the type of facility and discharge, the name of the receiving water, and the estimated volume of the discharge (expressed as gallons per day).

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3. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. The NOI must be submitted to the address indicated on the NOI form. Coverage under the terms and conditions of this general permit begins when the applicant is issued an authorization number by certificate. The Executive Director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied.
4. Coverage under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit a NOI. The NOT and NOI must be submitted concurrently no fewer than 10 days before the transfer occurs. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company and would require the new operator to apply for permit coverage as stated above. If the NOT and NOI are submitted as required under this provision, there will be no lapse in authorization for this facility.
5. If the owner or operator becomes aware that it failed to submit any relevant facts, or submitted incorrect information in an NOI, the correct information must be provided to the executive director in 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.
6. Facilities authorized under this general permit that plan to expand the facility, production, number of discharge days, or other factors exist that would affect the level of authorization under the terms of the permit, must either obtain the necessary and relevant authorization under this general permit, or obtain authorization under a separate individual or general TPDES permit prior to initiating those changes.
7. All NOIs, NOTs, and NOCs shall meet the requirements of 30 TAC §305.44(a) (relating to Signatories to Applications).
8. For discharges located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI, to the appropriate TCEQ regional office.

Counties:

Comal, Bexar, Medina, Uvalde,
and Kinney

Contact:

TCEQ
Water Program Manager
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas
(210) 490-3096

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Williamson, Travis, and Hays

TCEQ
Water Program Manager
Austin Regional Office
2800 S IH 35, Suite 100
Austin, TX 78704-5712
(512) 339-2929

X. Technology -Based Requirements

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

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

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

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

Technology-based limitations and/or monitoring requirements are included in the general permit for total suspended solids (TSS), inorganic suspended solids (ISS) and pH. Activities related to the harvest of aquatic species in production ponds, such as seining and dewatering, have a potential to suspend pond bottom sludges that are subsequently discharged with pond effluent. An effluent limitation of 90 mg/L for TSS is established for BCT based on BPJ. This limit is consistent with the limitation for stabilization ponds required in 30 TAC § 309.4. The suspension of inorganic suspended solids can lead to turbidity and may also contribute to the deposition of solids and filling of receiving waters, therefore a report requirement was included in the draft permit. An effluent limitation for pH of 6.0 to 9.0 standard units is also included which is a typical requirement for all TPDES permits to prevent acidic or alkaline discharges.

XI. Water Quality-Based Requirements

Water quality-based effluent limitations are included in the proposed permit for dissolved oxygen (DO), carbonaceous biochemical oxygen demand 5-day (CBOD₅) and ammonia nitrogen. Modeling was conducted to determine effluent limitations to ensure the dissolved oxygen criteria delineated in 30 TAC Chapter 307 will

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

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

XII. Monitoring and Reporting

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

- A. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- B. The sampling point to determine compliance with the monitoring conditions of this general permit must be downstream of any treatment unit that is used and prior to commingling with the receiving waters.
- 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 the analytical methods for the analyses of effluent samples shall meet the requirements in 40 CFR Part 136, or in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater."
- E. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.
- F. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

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- G. Results of analyses for determining compliance with numeric effluent limitations shall be recorded on an original discharge monitoring report (DMR)-EPA No. 3320-1 form, a duplicate of the form, or a self-generated form that is comparable. Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in this general permit. DMRs shall be submitted on a monthly basis to the TCEQ Enforcement Division (MC 224). The DMR for any given month shall be due by the 20th day of the following month. A DMR must be submitted for each month, even if a discharge did not occur that month. DMR data may also be submitted electronically through the NetDMR System.
- H. If the permittee monitors any pollutant in a discharge more frequently than required by the permit using approved analytical methods, all results of such monitoring shall be included in the calculation and recording of the values on the DMR. Increased frequency of sampling shall be indicated on the DMR.
- I. Records of monitoring activities shall include:
1. date, time and place of sample or measurement;
 2. identity of individual who collected the sample or made the measurement;
 3. date of analysis;
 4. identity of the individual and laboratory who performed the analysis;
 5. the technique or method of analysis; and
 6. the results of the analysis or measurement.
- J. The records of all monitoring activities shall be maintained at the facility and shall be readily available for inspection by authorized representatives of the TCEQ for a minimum period of five years.
- K. According to 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment, shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by electronic facsimile transmission to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written report shall be provided by the permittee to the TCEQ regional office and to the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written report shall contain:
1. a description of the noncompliance and its cause;
 2. the potential danger to human health or safety, or the environment;
 3. the period of noncompliance, including exact dates and times;
 4. if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 5. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

XIII. Procedures for Final Decision

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

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

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

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

TPDES General Permit for Concentrated Aquatic Animal Production Facilities and Aquatic Animal Production Facilities (TXG130000) issued and effective April 18, 2006.

B. 40 CFR Citations

- 40 CFR § 122.24
- 40 CFR Part 122, Appendix C
- 40 CFR § 124
- 40 CFR § 136
- 40 CFR § 451

C. TCEQ Rules.

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

D. Letters/Memoranda/Records of Communication

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Interoffice Memorandum dated March 9, 2010 from Trevino (Water Quality Standards Implementation Team) to Industrial Permit Team.

Interoffice Memorandum dated April 27, 2001 from Marshall (Water Quality Assessment Team) to Industrial Permits Team.

E. Miscellaneous

Quality Criteria for Water (1986), EPA 440/5-86-001, 5/1/86.

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Natural Resource Conservation Commission, December 1996.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10 (21 TexReg 9765, 4/30/2000).

"Implementation of the Texas Natural Resource Conservation Commission Standards via Permitting", Texas Natural Resource Conservation Commission, August 2003.

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

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Appendix A

Modeling of Potential Discharges into Various Receiving Water Types.

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

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

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Appendix B

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

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

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

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

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

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Appendix C

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

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

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

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

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