

Executive Director's Response to Public Comment on General Permit No. TXG830000

The executive director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on General Permit No. TXG830000. Prior to issuing a general permit, the executive director must comply with the provisions of the Texas Water Code (TWC), §26.040(d) and 30 TAC §205.3(e). Both provisions require the executive director to respond to all timely filed public comments. The executive director must make these responses publicly available and must file them with the commission's Office of the Chief Clerk at least ten days before the commission considers the approval of the general permit.

The Office of the Chief Clerk timely received comment letters from the Texas Oil and Gas Association (TxOGA), and from the Association of Electric Companies of Texas, Inc. (AECT). Baker Botts, L.L.P., AECT, and Center Point Energy filed preliminary comments. This Response addresses all timely filed public comments received. In certain instances, the general permit was revised in response to comments received. If you need more information about this general permit or the general wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Introduction

General Permit No. TXG830000 would amend and renew authorization for surface discharges of waters contaminated by petroleum fuel or petroleum substances into or adjacent to waters in the state. This general permit is proposed under TWC, §26.040. The commission is authorized to "issue a general permit to authorize the discharge of waste into or adjacent to waters in the state by category of dischargers in a particular geographical area of the state or in the entire state if the dischargers in the category discharge storm water or: (1) engage in the same or substantially similar types of operations; (2) discharge the same types of waste;" (3) are subject to the same effluent limitations or operating conditions requirements; (4) are subject to similar monitoring requirements; and (5) are more appropriately regulated under a general permit. A permit issued pursuant to TWC, §26.040 must be readily enforceable, provide for adequate compliance monitoring, and cannot "include a discharge of pollutants that will cause significant adverse effects to water quality."

Procedural Background

The Office of the Chief Clerk received the permit file on May 4, 2007. In accordance with 30 TAC §205.3(a)(2), the Notice of Proposed Amendment of General Permit Authorizing the Discharge of Wastewater was published in the *Texas Register*, May 18, 2007; *Dallas Morning News*, May 15, 2007; *Amarillo Globe-News*, May 14, 2007; *El Paso Times*, May 14, 2007; *Houston Chronicle*, May 14, 2007; *The Monitor*, May 14, 2007; and *San Antonio Express News*, May 14, 2007. Mailed notice was also provided in accordance with 30 TAC §205.3(b). The original comment period ended on June 18, 2007. Subsequently, the general permit was re-noticed to clarify there were additional changes being made to the 2002 version of the general permit. Notice of the general permit was published in the *Texas Register*, February 8, 2008; *Dallas Morning News*, February 1, 2008; *Amarillo Globe-News*, February 1, 2008; *El Paso Times*, February 1, 2008; *Houston Chronicle*, February 1, 2008; *The Monitor*, February 1, 2008; and *San Antonio Express News*, February 1, 2008. The comment period ended on March 10, 2008. No additional comments were received during the second comment period.

COMMENTS AND RESPONSES

COMMENT NO. 1:

AECT comments that it supports the renewal and the draft amendments that have been published.

RESPONSE NO. 1

The executive director acknowledges AECT's support for the renewal of General Permit No. TXG830000 and the proposed draft permit. No changes were requested or made based on this comment.

COMMENT NO. 2:

TxOGA requests that the definition of "utility vault" be expanded to include pipelines. They also requested that Part III, Section C, "Discharges from Utility Vaults," be changed to include pipelines.

RESPONSE NO. 2:

After requesting and receiving additional information from TxOGA, the executive director agrees that discharges from "pipeline vaults" can be included in the general permit. These discharges will not be covered under the definition of a "utility vault" but will be covered as discharges from "pipeline vaults."

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

CHANGE NO. 1:

The following definition for a "pipeline vault" was added to Part I. Definitions:

"Pipeline vault – Any structure utilized to house pipelines for access to those pipelines."

Part III. Section C., "Discharges from Utility Vaults" was changed as follows:

"Section C. Discharges from Utility Vaults and Pipeline Vaults

Discharges from telephone, electric, gas, cable, pipeline vaults, or other telecommunication utility vaults, shall comply with the following requirements:"

A new Part III. Section C.8. was added as follows:

"8. Discharges from pipeline vaults do not include discharges of water contaminated by petroleum product from the cleaning, repair, or testing of a pipeline."