

Texas Commission on Environmental Quality  
WATER QUALITY ADVISORY WORK GROUP (WQAWG)  
Meeting \*

July 19, 2016, 1:30 p.m.  
Building E, Room 201S

**Meeting Summary**

**All information presented in this document is a compilation of TCEQ staff notes and is not a transcript of the meeting; inadvertent errors and/or unintentional omissions of information may exist in this document. Any information cited should be verified by the user.**

**Moderator**

**Chris Linendoll**

Welcome and Introductions

**General Permit (GP) Updates:**

**Aquaculture TXG130000**

**Laurie Fleet**

**Notes:**

On March 10, 2016 the commission adopted a renewal with amendment of the Aquaculture General Permit TXG130000, which authorizes discharges into or adjacent to water in the state by aquaculture facilities and certain related activities. The fact sheet contains additional information about the issued permit. Permittees, except Level I, that are currently authorized under the previous general permit must submit a Notice of Intent prior to July 17, 2016.

**Concrete Batch TXG110000**

**Laurie Fleet**

**Notes:**

The TCEQ is proposing to renew the Ready Mixed Concrete General Permit TXG110000, which authorizes the discharge of facility wastewater, contact stormwater, and stormwater associated with this industrial activity. The current general permit expires on November 7, 2016. The fact sheet contains additional information about the draft permit. The comment period ended on February 22, 2016. The commission is expected to take action on this permit October 19, 2016.

**Pesticide TXG870000**

**Laurie Fleet**

**Notes:**

The TCEQ is proposing to renew the Pesticide General Permit TXG870000, which authorizes the discharge of pesticides for the control of mosquitoes and other insects, vegetation and algae, animal pests, area-wide pests, and forest-canopy pests. The current general permit expires on November 2, 2016. Currently in management briefings to publish notice. If approved, the public notice published on July 1, 2016.  
EOC Aug 1

## **Petroleum Bulk Storage TXG340000**

**Laurie Fleet**

### **Notes:**

The TCEQ is proposing to renew the Petroleum Bulk Stations and Terminals General Permit TXG340000, which authorizes the discharge of facility wastewater, contact stormwater, and stormwater associated with industrial activities from petroleum bulk stations and terminals. The current permit expires on October 24, 2017. The TCEQ is currently developing the draft permit.

## **Program Updates:**

### **Stormwater Multi-Sector General Permit Renewal**

**Lindsay Garza**

#### **Notes:**

- Introduction to MSGP - issued August 14, 2011 and expires August 14, 2016
- Renewal process began October 2014. Requested comments internally
- Stakeholder meeting held January 8, 2015, comment period ended January 23, 2015
- Draft permit was sent to EPA for review on May 8, 2015; EPA review response letter received August 12, 2015, no objections
- Draft permit published in Texas Register in 6 newspapers on October 16, 2015: Houston, Dallas, San Antonio, Amarillo, El Paso, McAllen on the MSGP at 2015 EPA MS4 Conference in Hot Springs, AR on 10/21/1530 day comment period from October 16 - November 16, 2015, public meeting held in TCEQ Agenda Room at 1:30 pm , 30 attendees, 60 formal comments received
- Response to Comments (RTC) complete May 6, 2016
- Attended Commissioners Agenda for adoption on July 6, 2016
- Commissioner's approve permit - issued date July 13, 2016
- Permit Effective Date - August 14, 2016

### **EPA MS4 Phase II General Permit Remand Rule (Proposed)**

**Lindsay Garza**

#### **Notes:**

- EPA is proposing to make changes to the small MS4 General Permit federal regulations (published notice in **Fed. Reg. on Jan 6, 2016**)
- The proposal results from a lawsuit against EPA in 2003
- EPA's proposal will revise the regulations to ensure that
  - states determine the adequacy of BMPs and permit requirements
  - states provide public notice and opportunity for public to request a public hearing

EPA states that there will be no new substantive requirements for small MS4s.

The proposed rule discusses three options for addressing the remand rule:

#### **One option - Traditional General Permit Approach (EPA provided a strike out version of proposed revisions to small MS4 rules 40 CFR §§122.33 and 122.34)**

- The process for issuing small MS4 general permits would correspond with the way NPDES general permits are issued for other type of discharges.
- Prescriptive general permit.
- States would add all requirements to GP that MS4s must meet to reduce pollutants to the MEP and to protect water quality.

The GP itself would be subject to public notice and comment and an opportunity to request a hearing, but not the individual authorizations.

### **A second option - Procedural Approach – (Similar to Texas)**

- EPA would add procedural requirements to the existing rule structure.
- MS4s would inform states in its Notice of Intent of the BMPs it will implement through its SWMP to meet the requirements of the GP.
- States will review each NOI and SWMP and ensure it has BMPs and conditions necessary to comply with the requirement to reduce pollutants to the MEP and to protect water quality.
- Allows for flexibility for each MS4 based on its local site-specific environmental conditions
- States provide the public with an opportunity to comment on the proposed individual authorizations and to request a hearing.

### **A third option - State Choice Approach**

States would choose between the two approaches or implement a combination of the two to issue an authorize coverage under a GP.

Comments were due to EPA - **March 21, 2016**.

TCEQ reviewed the rule and provided comments. TCEQ supports option 3 where there is most flexibility for states.

The comments provided by TCEQ are available at TCEQ website at

[https://www.tceq.texas.gov/agency/nc/Water\\_Issues.html](https://www.tceq.texas.gov/agency/nc/Water_Issues.html)

EPA is working on finalizing the language for the final rule, expected to be final Nov. 2016

- EPA held two focused conference calls with states in coordination with the Association of Clean Water Agencies (ACWA) to ask questions and get clarification on some specific items in the rule
  - On June 22, 2016, EPA held a closed-in face-to-face meeting in Washington, DC with states to discuss the draft of the final rule. Six states attended the meeting, including Texas.
- EPA showed the draft final rule to the states in attendance
  - States discussed concerns with the language

### **Implementation Procedures Revisions**

**Peter Schaefer**

#### **Notes:**

IP revisions are progressing. Proposed changes to IPs include:

- Whole Effluent Toxicity (WET) reasonable potential determination are being updated in accordance with a December 28, 2015 letter from EPA accepting TCEQ's process for determining reasonable potential. Updates to dechlorination requirements for minor municipal discharges.
- Variance procedures- EPA wants the TPDES permit to state what the final effluent limit would be if the site-specific variance request were not approved. This is already done in practice, but not spelled out in the IPs. This **may** be added to the 2017 IPs.

- Thermal Evaluation Strategy for permits with temperature limits higher than segment criteria.
- Updates to critical low-flow (7Q2) and harmonic mean (HM) flow data for classified segments.
- Updates to classified segment ambient water quality values.
- Supporting information for 316(b) rule implementation. This may take longer than the expected 2017 date for this IP revision.
- Updates to endangered species.
- Updates to MALs.
- pH screening procedures entities that discharge directly to a classified segment.
- Correcting errors/omissions in current IPs.

### **Thermal Evaluation Procedures**

The Texas Commission on Environmental Quality (TCEQ) hosted a public stakeholder meeting to continue discussions on the development of temperature screening procedures for use in Texas Pollutant Discharge Elimination System (TPDES) permits. Since earlier stakeholder meetings in 2014 and 2015, the TCEQ sent draft, high-level procedures to and received comments from EPA Region VI. A July 2016 meeting was held to discuss revisions to the draft procedures in response to EPA comments. Request for Stakeholder comments is open. More details are available at website [https://www.tceq.texas.gov/waterquality/standards/WO\\_stds](https://www.tceq.texas.gov/waterquality/standards/WO_stds)

### **Federal Rule 316b for Cooling Water Intake Structures**

**Merrit Mc Kelvy**

#### **Notes:**

Section 316(b) of the Clean Water Act requires EPA to issue regulations on the design and operation of intake structures, in order to minimize adverse environmental impacts. The goal is to reduce impingement mortality and entrainment of fish and other aquatic organisms at cooling water intake structures (CWISs) used by certain power generation and manufacturing facilities for the withdrawal of cooling water from waters of the United States (WOTUS). EPA published a final regulation to establish Section 316(b) requirements for Phase II (existing) facilities on August 15, 2014 (Final Rule).

Next stakeholder meeting is set for November 3, 2016. More details available at website [https://www.tceq.texas.gov/permitting/wastewater/industrial/WO\\_industrial\\_permits.html](https://www.tceq.texas.gov/permitting/wastewater/industrial/WO_industrial_permits.html)

### **Rule Updates:**

#### **City of Austin Petition**

**Laurie Fleet**

#### **Notes:**

On March 14, 2016, we received a petition from the City of Austin requesting that the commission initiate rulemaking to amend 30 Texas Administrative Code (TAC) Chapters 222 and 309. The proposed rules would allow permittees and applicants to rely on the beneficial reuse of treated wastewater when calculating the size of effluent storage and the amount of land required for disposal of wastewater. This would allow permittees and applicants to reduce the effluent storage size and dedicated land application acreage that are currently required by rule. The commission approved rulemaking on 5/11. Stakeholder meeting 8/9, 1 pm.

## Federal Electronic Reporting Rule

Laurie Fleet

### Notes:

This federal rule, which was effective Dec. 21, 2015, requires NPDES regulated entities to electronically submit permit and compliance monitoring information instead of using paper, unless an electronic waiver request is requested and approved.

Electronic reporting is required for:

- Discharge Monitoring Reports (DMRs);
- General Permit Applications (Notice of Intent, Notice of Change, Notice of Termination, etc); and
- Periodic Reports (annual reports, quarterly reports, etc).

The rule will be implemented over a 5-year period.

### Timeline

- Dec. 21, 2016:
  - Collect DMR data electronically
  - Share compliance monitoring, violations, enforcement actions electronically with EPA
  - TCEQ must submit its Implementation Plan for Phase 2 to EPA
  - Waiver Process:
    - States must explain their waiver criteria (e.g., factors used) in the Implementation Plan
    - States must receive a request from regulated entity before granting a temporary waiver unless the GP waives all entities authorized under the GP
    - Temporary waivers can be issued for a 5 year period
    - Permanent waivers do not expire
    - Waiver form: 20754 available Sept 1.

Dec. 21, 2020: Complete implementation of Phase II

- Electronically collect and submit to EPA GP Reports (NOI, NOE, NOT, LEW) and Periodic Reports (CAFO, MS4, PT, Muni. w/o PT, SSO/Bypass, and 316(b)).

We have updated the boilerplate language in TPDES permits to require permittees to submit DMRs electronically by December 21, 2016 and periodic report by 9/1/2020. You are required to comply with the Federal Rule even if your permit language has not been updated.

The Aquaculture GP included a waiver from electronic reporting.

The MSGP included a requirement to submit DMRs by Dec 21 and application forms by Sept 1, 2017 and Concrete Batch GP will match the MSGP.

All other GPs will be updated as they renew over the next 4 years. Less than 100 permittees waived.

## **Federal NPDES Update Rule**

**Laurie Fleet**

### **Notes:**

On May 18, 2016, EPA proposed changes to the NPDES Applications and Program. They refer to this rulemaking as the NPDES Updates rule. According to the Federal Register publication, these revisions would make the regulations consistent with the 1987 CWA Amendments and with requirements established by judicial decisions. These revisions would delete certain regulatory provisions that are no longer in effect, and clarify the level of documentation that permit writers must provide for permitting decisions. These revisions would also allow permit writers to use more consistent data for permitting decisions and would modernize opportunities for public notice and participation in NPDES permitting actions. Comments on the proposed rulemaking were due yesterday (July 18th).

## **Federal Rule for Oil and Gas Extraction Category (40 CFR Part 435) discharges to POTWs**

**David James**

### **Notes:**

The final rule to ban the discharge of unconventional O&G wastewater into publicly owned treatment works (POTWs) was published in the Federal Register on Tuesday, June 28, 2016.

The final rule becomes effective on August 29, 2016.

The final rule amends 40 CFR Part 435, Subpart C-Onshore Subcategory, to add §435.33 Pretreatment standards for existing sources (PSES) and §435.34 Pretreatment standards for new sources (PSNS). For both amendments, “there shall be no discharge wastewater pollutants associated with production, field exploration, drilling, well completion, or well treatment for unconventional O&G extraction wastewater... into POTWs.”

Unconventional O&G means crude oil and natural gas produced by a well drilled into a shale and/or tight geological formations.

The final rule is intended to continue the current industry standard of no discharges to POTWs of UOGE wastewater in order to protect the public health and the environment as well as POTWs from disruptions in their operations that can be caused by these wastewaters.

## **SB 912: Accidental Discharges and Spills Rule**

**Laurie Fleet**

### **Notes:**

On May 11th, 2016, the commission adopted revisions to Chapters 305 and 327 to implement Senate Bill 912. The adopted rules allow single, accidental discharges or spills of treated or untreated domestic wastewater that occur at a wastewater treatment or collection system owned or operated by a local government to be reported as a summary of spills to the TCEQ on a monthly basis when the following conditions are met:

1. the spill volume is 1,000 gallons or less;
2. it is not associated with another accidental discharge or spill;
3. it is controlled or removed before entering water in the state;
4. it does not adversely affect a public or private source of drinking water;
5. it will not endanger human health or safety or the environment; and
6. it is not otherwise subject to local regulatory control and reporting requirements.

The adopted rules also establish standard methods for calculating the volume of an accidental discharge or spill and requires the owner or operator of the facility or collection system to use the standard methods.

The adopted rules identify the minimum data that must be submitted on the summary.

**HB 1902: Graywater Reuse**

**Laurie Fleet**

**Notes:**

- The bill creates a new regulatory program for “alternative onsite water” which the bill defines as "rainwater, air-conditioning condensate, foundation drain water, storm water, cooling tower blowdown, swimming pool backwash and drain water, reverse osmosis reject water, or any other source of water considered appropriate by the commission."
- The bill requires TCEQ to develop minimum standards for both the indoor and outdoor use of treated graywater and alternative onsite water. The standards must:
  - allow the use of graywater and alternative onsite water for toilet and urinal flushing;
  - establish minimum treatment requirements; and
  - ensure these uses don't create a nuisance, threaten human health, or damage surface and groundwater quality.
- The bill allows an adjustment in the size of an on-site sewage disposal system when used in conjunction with a graywater system.
- The bill provides authority for TCEQ to develop rules for the inspection and annual testing of graywater and alternative onsite water systems, which is optional.

The commission approved publication on 7/6. Will publish in TR 7/22, PM 8/16 @2 pm.

**HB 2031: Marine Seawater Desalination**

**Laurie Fleet**

**Notes:**

**Water Quality**

The bill requires TCEQ to adopt an expedited permitting process for discharge permits for treated marine seawater and waste from desalination marine seawater into the Gulf of Mexico. An expedited permitting process will be established as follows:

- For treated seawater discharges into a stream or impoundment and desalination wastewater discharges into the Gulf within 3 miles offshore: public notice, public comment, opportunity for public meeting, and opportunity for contested case hearing.
- For desalination wastewater discharges into the Gulf >3 miles offshore: public notice and public comment only. No opportunity for public meeting or contested case hearing.

The discharge of desalination wastewater into bays and estuaries is prohibited under the expedited permit process but may still be permitted under Texas Water Code Chapter 26.

- Discharge Zones in the Gulf:
  - TPWD and GLO will develop recommended discharge zones in the Gulf by 2018.
  - TCEQ will adopt rules for discharge zones by 2020.
  - Prior to 2020, a person must consult TPWD and GLO regarding the discharge point prior to submitting a wastewater discharge application to TCEQ.
  - After 2020, all discharges of desalination reject water into the Gulf must be within the established discharge zones.

There are other components to the bill that affect Water Rights. Commission approved publication on 5/11. Comment period ended 7/5. Adoption 10/19.

**Meeting adjourned**