

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

October 17, 2017 @ 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:**

**Petroleum Contaminated Water General Permit (TXG830000)**

**Laurie Fleet**

**Notes:**

On October 4<sup>th</sup>, the Commission reissued 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 re-issued permit will be effective on October 24, 2017. Current permittees must submit a renewal application by January 22, 2018 to continue authorization.

**Renewal of the Petroleum Contaminated Water General Permit No. TXG830000**

The TCEQ is proposing to renew and amend the Petroleum Contaminated Water General Permit TXG830000, which authorizes the discharge of water contaminated by petroleum fuel or petroleum substances into or adjacent to water in the state. The renewal with amendments will replace the current permit when it expires on September 12, 2018. The draft permit is currently being drafted.

**New GPs Under Development**

**Laurie Fleet**

The WQD is looking into creating 2 new general permits (Carwashes and Conventional Water Treatment Plants). A preliminary draft has been routed to the Section manager for review/input on some questions. Once I get the official “thumbs up” from him, I’ll create an agency-wide project team.

**Stormwater Construction General Permit (TXR150000) Renewal** **Lindsay Garza**

**Notes:**

- CGP regulates stormwater discharges related to construction activities
- Permit was issued March 5, 2013, expires March 5, 2018
- Renewal process began in October 2016
- Stakeholder Meeting held Oct 17<sup>th</sup> 2016
- CGP draft was given to EPA for 90 day review on 2/20/17
- EPA Objection letter received 5/24/17
- We addressed EPA comments and EPA withdrew objections on 6/13/17
- Draft permit published in TR on 8/18/17 in 13 newspapers:

- 30 day Public Comment Period began 8/18/17 and ended on September 18<sup>th</sup>
- Public Meeting held in Agenda Room on September 18<sup>th</sup> at 1:30 pm
  - Received 55 comments
  - Working on RTCs now
- Scheduled for Commissioner's Agenda on Feb 7, 2018
  - 2 wks. prior, FS, RTC, and Draft Permit will be posted on Commissioner's Agenda webpage for viewing

#### **MS4 Phase II General Permit (TXR040000) Renewal**

**Rebecca Villalba**

#### **Notes:**

- This general permit regulates stormwater discharges from municipal separate storm sewer systems that are located in urbanized areas.
- The general permit expires on December 13, 2018 and we have started the renewal process.
- TCEQ had a stakeholder meeting on March 21, 2017 to discuss proposed changes to the draft permit. Notes for the stakeholder meeting and a list of proposed changes are available at the Stormwater Stakeholders Group at [https://www.tceq.texas.gov/permitting/stormwater/stormwater\\_stakeholders\\_group.html](https://www.tceq.texas.gov/permitting/stormwater/stormwater_stakeholders_group.html)
- Time line:
  - February 22, 2017 - Began renewal process
  - March 21, 2017 - held Stakeholder Meeting
  - May 31, 2017 - Completed draft permit
  - July 30, 2017 - Routed draft to internal TCEQ staff for review
  - August 14, 2017 - Briefed Deputy Director
  - September 29, 2017 - December - EPA 90 day review
  - April/May: Public Meeting and 30 day public comment period
- Proposed changes to the draft permit include:
  - Update the general permit to be consistent with the federal Remand Rule effective on January 9, 2017. The rule requires small MS4 general permits to be “clear”, “specific”, and “measurable”. States cannot include terms such as “as practically”, “as necessary”, “should”, “permittee is encourage to”, etc.
  - Incorporate the NPDES Electronic Reporting Rule effective on December 21, 2015. EPA will start working on tools to accept applications and reports from small MS4s electronically by December 21, 2020. It is still unclear what the tools will look like. A workgroup is scheduled to start fall 2017.
  - Lower the benchmark value for stormwater discharges from concrete batch plants under MCM 7 for TSS from 100 mg/L to 50 mg/L to be consistent with the MSGP sector E (Glass, Clay, Cement, Concrete, and Gypsum Products), and the draft CGP TXR150000.
  - Clarified that NOCs are only needed for annexations, if the annexation results in acquiring a population that results in a level change or if the newly annexed area discharges to an impaired waterbody.

- Add a new requirement that once a year, MS4s will check whether an impaired water body within its permitted area has been added to the latest 305(b)/303(d) list.
- Add a new requirement that once a year, MS4s will review the SWMP in conjunction with the completion of the annual report.
- Add a new requirement that if an MS4 has a public website, it will publish the SWMP and annual reports on the MS4's website.
- Add a new requirement that level 4 MS4s must control the discharge of floatables into the MS4 - similar to the requirements in Phase I MS4 individual permits.
- Add a new requirement that level 4 MS4s must evaluate new and existing flood management project(s) to determine their impact on water quality - similar to the requirements in Phase I MS4 individual permits.

**Rule Updates:**

**30 Texas Administrative Code Chapter 312 Sludge Rule**

**Brian Sierant**

**Notes:**

The Texas Commission on Environmental Quality (TCEQ) is soliciting your input on rule changes to the 30 Texas Administrative Code Chapter 312 rules to provide clarification for the intent of rule requirements. The rulemaking will clarify the intent of existing requirements, remove inconsistencies, and improve readability. In order to examine these items and provide potentially impacted persons the opportunity to participate, TCEQ has scheduled a Biosolids Stakeholder Meeting to on October 30, 2017 at TCEQ. More information at <https://www.tceq.texas.gov/permitting/wastewater/sludge> . The TCEQ will be accepting written comments from **October 30, 2017 through December 15, 2017**. Comments can be sent to: Mr. Brian Sierant of the TCEQ Water Quality Division at P.O. Box 13087, MC-150, Austin, Texas 78711-3087, or electronically at [Brian.Sierant@tceq.texas.gov](mailto:Brian.Sierant@tceq.texas.gov). If you have any questions or need additional information, please contact Mr. Sierant at the email address above or by phone at (512) 239-1375.

**HB 2582: Exemption of Certain Quarries from the APO Registration Laurie Fleet**

**Notes:**

House Bill 2582 amended the Texas Water Code (TWC), §28A.001(1) to add a new exemption to the list of existing exemptions in the definition of "Aggregate production operation" (APO). The exemption applies to a site at which specialty or terrazzo-type stone is removed or extracted from the earth, the material is produced for commercial sale and used exclusively for decorative or artistic uses, and the horizon that is exposed for current production does not exceed five acres.

TCEQ is currently drafting the rule to amend 30 TAC Chapter 342 to add the new exemption.

## **HB 3618: Basin Cycle Repeal**

**Laurie Fleet & Sarah Eagle**

### **Notes:**

House Bill 3618 repealed TWC §26.0285 which required, to the greatest extent practicable, that all Texas Pollutant Discharge Elimination System (TPDES) permits within a single watershed contain the same expiration date (known as basin permitting). Additionally the bill amended the Texas Water Code (TWC), Section (§) 26.0135(d) to remove language that coordinates submittal of water quality summary reports by river authorities with the existing “basin permitting rules” as currently required under TWC §26.0285.

TCEQ is initiating rulemaking to repeal 30 Texas Administrative Code (TAC) §305.71 which requires basin cycle permitting for wastewater discharges. Repeal of this section will allow wastewater discharge permits to be issued for five year terms. Additionally 30 TAC Chapter 220.4 and 220.6 will be amended to replace cross-references to basin permitting with an established frequency for submittal of water quality summary reports. Commission approval to publish the draft rule is scheduled for November 1, 2017.

## **Federal Rule Dental Office Pretreatment Standards**

**Laurie Fleet & David James**

### **Notes:**

On June 14, 2017, the Environmental Protection Agency issued technology-based pretreatment standards to reduce the discharge of mercury-containing dental amalgam to publicly owned treatment works. These new regulations are found in 40 CFR Part 441. TCEQ is initiating rulemaking to amend 30 TAC §305.541 to adopt 40 CFR Part 441 by reference. Commission approval to publish the draft rule is expected in January 2018.

The final rule was published in the *Federal Register (FR)* / Vol. 82, No. 113 / Wednesday, June 14, 2017, to create a new Effluent Limitations Guidelines and Standards for the Dental Category.

- Note that a minor revision was published in the *FR* June 26, 2017 to correct the existing source compliance date from June 14, 2017 to June 14, 2027. Another minor revision was published in the *FR* July 5, 2017, to change a citation from §441.20 to §441.30.
- 40 CFR Part 441 Dental Office Point Source Category, Sections §441.10-441.50, requires dental offices that discharge wastewater into publicly owned treatment works (POTWs), and that place or remove dental amalgam, to:
- Install, operate, maintain, and inspect amalgam separators/removal devices that meet specific standards;
- Implement two best management practices (BMPs) recommended by the American Dental Association; and to submit One-Time Compliance Reports to their Control Authority (CA).

Note that for the regulated dental offices that discharge into a POTW with a TCEQ-approved pretreatment program, the POTW is the CA. For the regulated dental offices that discharge into a POTW without a TCEQ-approved pretreatment program, the TCEQ is the CA.

The final rule does not categorize regulated dental offices as a significant or categorical industrial user. Therefore, the EPA eliminated the application of specific oversight and

reporting requirements such as permitting and annual inspections. However, the CA may choose to apply these requirements to dental offices.

### **Compliance Dates**

After the effective date of the rule, **July 14, 2017**, new sources will have to comply immediately with the standards in the final rule and submit a One-Time Compliance Report (OTCR) to the CA within 90 days of introducing wastewater into a POTW and within 90 days after transfer of ownership.

The compliance date is **July 14, 2020**, for existing sources to be in compliance with the final rule. They must submit a One-Time Compliance Report to the CA no later than October 12, 2020, or within 90 days after transfer of ownership. If they have an existing amalgam separator in place prior to June 14, 2017, they must replace it by July 14, 2027. The OTCR includes a certification statement to be signed by a duly authorized signatory, such as a corporate officer, general partner, or proprietor of the dental office. Dental offices or their specified agent or representative have to retain a copy of the OTCR as long as they are in operation or until there is a change in ownership.

The rule does not specify that an OTCR form be developed or submitted. However, the EPA is developing a template that can be used by CAs and tweaked as needed.

Dental offices have to maintain documentation for at least three years that includes inspections conducted as per the manufacturers' recommendation, maintenance and repairs, and details on the shipping of canisters that contain dental amalgam. The documents must be made available for inspection in physical or electronic form.

### **Update (as of October 17, 2017)**

1. Amending Title 30, Texas Administrative Code, Chapter 305 to adopt by reference 40 CFR Part 441. Completed Fiscal Note, Estimated adoption by commission on 6-20-2018
2. Evaluating ways to determine the dental office locations that discharge into POTWs without an approved pretreatment program.
3. EPA published sample OTCR template.
4. Exploring whether the OTCR can be submitted to TCEQ electronically and mail (signed version).
5. EPA should soon publish a FAQ for Dental Offices and a FAQ for Control Authorities.
6. Finalizing implementation plan which includes the development of a TCEQ webpage for Dental Offices.
7. Working with Texas Dental Association, Texas Dental Examiners Board, and US Census Bureau to identify dental offices where TCEQ is the CA.

**Federal Rule Clean Water Act Analytical Methods Update  
(40 CFR Part 136 alternate test procedures)**

**Rebecca Villalba &  
David James**

### **Notes:**

The final rule was signed by the EPA Administrator on December 15, 2016, but withheld by the new administration due to the "freeze" memo in January 2017 from being published in the *Federal Register*. The final rule was published in the *Federal Register* on August 28, 2017, and became effective on September 27, 2017.

## Summary

The final rule amends 40 CFR Part 136 for the laboratory testing procedures approved for analysis and sampling under the Clean Water Act and is applicable to wastewater permitting including approved pretreatment programs. The changes include:

- New Standard Methods (SM) and American Society for Testing and Materials (ASTM) methods for Inorganics
- Metals, ammonia, cyanide, arsenic, color, turbidity, conductivity, alkalinity, hardness, etc.
- Deletes EPA Method 220.5 for cobalt, molybdenum, and thallium
- New SMs for acids, base/neutrals, pesticides, and volatiles;
- New ASTM method for nonylphenol (ASTM-7065-11)
- Revised three EPA Methods that replace 608 (Pesticides and PCBs), 624 and 625 (volatile and semi volatile organic compounds)
- 608.3 Organochlorine Pesticides and PCBs by GC/HSD (replaces Method 608)
- 624.1 Purgeables by GC/MS (replaces Method 624), and
- 625.1 Base/Neutrals and Acids by GC/MS (replaces Method 625)
- Revised microbiological methods for E. coli and Fecal Coliforms,
- Clarifications and corrections for chemical, radiochemical, and whole effluent toxicity methods;
- Methods reviewed under the alternate test procedures (ATP) program;
- Clarifications to the procedures of EPA approval of nationwide and limited use ATPs
  - Clarification that only EPA approval of ATPs, not state approval
  - 6 new ATPs: for Coliform/E. coli, nitrate-nitrogen, inorganic ammonia, total kjeldahl nitrogen (TKN), nitrate in water & wastewater, and TKN and total phosphorus
  - A laboratory may modify certain types of approved 40 CFR Part 136 method if the modification is documented as described at 40 CFR 136.6. The laboratory will no longer receive or require a letter from EPA. However, the permittee must notify the TCEQ of its intent to use a modified method.
- Amended the procedure for the determination of method detection limits (MDLs) to address laboratory contamination and to better account for intra-laboratory variability.
  - The MDL procedure now uses method blanks to calculate an MDL, in addition to the spiked samples that have always been used to calculate the MDL. The MDL is the higher of the two values (either the MDL<sub>s</sub> calculated using spiked samples or the MDL<sub>b</sub> calculated using method blanks).
  - The MDL now requires that the samples used to calculate the MDL are representative of laboratory performance throughout the year, rather than on a single date.
  - A laboratory has the option to pool data from multiple instruments to calculate one MDL that represents multiple instruments.

The final rule also includes Minimum Levels (MLs) and MDLs for some of the methods proposed.

- Instead of using the term Minimum Analytical Levels (MALs), a term used in Texas, the final rule uses the term Minimum Level (ML). Some MLs and MDLs in the rule are lower than those in TCEQ's current *Implementation Procedures for the Texas Surface Water Quality Standards (IPs)*, June 2010, RG-194, however some are higher. The rule includes different MLs for the same pollutant depending on the method used.
  - TCEQ is in the process of verifying if the MLs may be deemed by EPA Region 6 as analogous to TCEQ MALs in functionality.
  - For the purposes of NPDES compliance monitoring, EPA considers the following terms to be synonymous: "quantitation limit," "reporting limit," and "minimum level."
  - TCEQ has identified 49 MLs that are lower than MALs in 2010 IPs for pesticides, volatiles, base/neutrals, and acids
  - Historically, 40 CFR Part 136 included only MDLs for the specified analyses in the listed methods; MLs were not historically listed.
  - Minimum level (ML)—the term "minimum level" refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL), whichever is higher.
  - Minimum levels may be obtained in several ways: They may be published in a method; they may be based on the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a laboratory, by a factor of 3.
  - The rule revision introduces MLs to the following methods: Method 608.3; Method 624.1; and Method 625.1.

The TCEQ is reviewing this new rule and will provide additional information to the regulated community when possible. For additional information, please go to the following link: <https://www.epa.gov/cwa-methods/methods-update-rule-2017>

### **Program Updates:**

#### **Implementation Procedures Revisions**

**Peter Schaefer**

#### **Notes:**

IP revisions were discussed as follows:

- 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.
- pH screening procedures. Currently in use. Required of major municipal and industrial facilities that discharge directly to classified segments and that have permit limits for pH that are outside the range found in the TSWQS.
- Dechlorination requirements for minor municipal discharges. This will include facilities of 0.5 MGD or larger.
- Thermal procedures. Procedures to determine compliance with temperature standard. Intended for permits with a thermal component to their discharge. Can use simple model or complex if necessary.

- Updates to classified segment ambient water quality values (Appendix D of IPs) are in process, but not yet complete.
- Updates to critical low-flows and harmonic mean flows for classified segments (Appendix C of IPs) is complete. This includes updates to the description of the table, to clarify how these calculations are derived.
- Updates to endangered species (Appendix B of IPs) have been completed. De-listing of Concho water snake- (Concho River and Colorado River). Listing of smallmouth shiner and sharpnose shiner-Brazos drainage area. Listing of Salado Salamander- . There are several mussels species in the central Texas and Rio Grande areas that are proposed for federal listing. There are talks to come up with a conservation agreement to keep them off the list. There are currently no plans to include proposed species in the IPs.
- Updates to Minimum Analytical Levels (MALs). US EPA Methods Update Rule is final. We are in process of determining how to implement this rule in our permitting.
- Errors and omissions are being corrected in current IPs.

### **Thermal Procedures**

(Texas Administrative Code, Title 30, Chapter 307.4 General Criteria)

#### **Notes:**

Thermal procedures are being developed. The process for determining compliance with the standard follows a simple to complex approach, whereby a simple model or field sampling can be used to show standard attainment. A more complex approach/model is used when necessary to determine if the temperature standard is attained. A stakeholder meeting was held yesterday (Oct 16, 2017). A rough timeline of events was provided and comments were received. TCEQ will be taking comments until November 20, 2017. Final procedures are anticipated in early 2018.

### **ICIS-NPDES Permitting Dataflow**

**Laurie Fleet**

#### **Notes:**

The dataflow to electronically flow general permit authorization data to ICIS is almost complete. We expect User Testing to be completed by the end of November and the system go into production by Jan 1, 2018.

Due to the DMR issues with the MSGP, we will not “turn on” the MSGP dataflow until Sept 1, 2018 (when the temporary e-waiver expires). This will give the MSGP universe time to train and get enrolled on the NetDMR system. It will also prevent past DMR non-receipts from being generated.

**Meeting adjourned**