

Texas Commission on Environmental Quality Oil and Gas Discharge Delegation Stakeholder Meeting

September 17, 2020 @ 9:30 a.m.
Via MS Teams Live Event

MEETING SUMMARY

Welcome and Introductions

Commissioner Emily Lindley

Status of the NPDES Application

Commissioner Emily Lindley

- Currently the package is at the Attorney General's office for their review. Once the Attorney General has completed their portion we will then send it to the Governor's office for them to attach a cover letter and then we will send the package up to EPA Region 6. I had previously stated it would be September when we got it up there, we're still optimistic that will be the case. We are very appreciative of the work the Attorney General's office and the Governor's offices have put into this. They have been great partners as has EPA Region 6.

New TPDES General Permit TXG310000 to replace TXG260000 and TXG330000

David Galindo

- Will supersede and replace EPA NPDES General Permit Nos. TXG260000 (Territorial Seas) and TXG330000 (Onshore Stripper Wells east of 98th meridian and Coastal facilities).
- The general permit will provide one authorization (both federal and state) and will replace individual authorizations required by Railroad Commission and general permit coverage required by EPA.
- General permit is being developed to require conditions specific to the three specific categories of discharges authorized via the general permit: Onshore Stripper Wells, Coastal Facilities, and Territorial Seas Facilities where EPA regulations at 40 CFR Part 435 establish discharges that are authorized and prohibited (e.g. produced water authorized in certain categories and not others).
- TCEQ has worked extensively with EPA and Railroad Commission to understand both agency's permitting programs regulating these activities and the general permit is being developed to take into account the differences between the existing state and federal permitting programs.
- Once it's approved internally in TCEQ it will then go to EPA for review, EPA has a 90-day review period. We're anticipating getting this by the end of this year. Further updates will be provided at the December stakeholders meeting.

New State Only General Permit for the Outer Continental Shelf

David Galindo

- General permit development will be initiated following completion of the draft for TPDES General Permit No. TXG310000. Significant preliminary technical work has already occurred in advance of initiating development of the draft general permit.
- General permit will authorize only discharges to the Gulf of Mexico Outer Continental Shelf - between 3 miles and 10.2 miles (3 leagues) from shore

- General permit will only provide state authorization, and separate EPA authorization will be required under the NPDES program (EPA General Permit GMG290000 is currently effective), as EPA does not delegate NPDES authorization past the 3-mile statutory boundary.
- Based on this being a state-only general permit, EPA review and approval is not required. TCEQ anticipates sending both the new TPDES general permit and state-only general permit to public notice at the same time based on the 90 day EPA review not required for this state-only general permit.
- As with the TPDES general permit, TCEQ is actively coordinating with EPA and RRC on development of this state-only general permit.

Revise Hydrostatic Test General Permit TXG670000

David Galindo

- We initiated an amendment (without renewal) of the existing hydrostatic test general permit to expand the permit applicability to allow discharges of hydrostatic test water into water in the state from crude oil and natural gas exploration, development, and production operations to be eligible for authorization under this general permit upon the TCEQ receiving approval from the EPA to regulate these activities. Until such time, these entities would continue to be required to obtain authorization to discharge from both the EPA and RRC.
- Public notice of the draft general permit was published in the Texas Register and newspapers in July. The public comment period ended on August 17, 2020. We received one comment letter, but the comments were outside the scope of the amendment. No changes were made to the general permit.
- Scheduled Commission Agenda: October 21, 2020

TCEQ Individual Permit Process

David Galindo

- Last September we did a full presentation with different pieces of the individual permit process and we will place that information on our website. The presentation includes some of the differences or some of the requirements that individual permittees may not be familiar with.
- TPDES permits require two public notices and allow for the opportunities to request public meetings and request public or contested case hearing on a permit.
- We encourage permittees to contact us and we can set up a pre-application meeting to help you get you familiar with our process and guide you through the application process.
- The more complete application that we receive, the sooner we can get the draft permit out to public notice.
- We will be placing some of the previous slideshow up on the website along with some additional information that we've been putting together for the stakeholders.

Announcements

David Galindo

- Next Meeting: December 10, 2020 @ 1:30 pm
- TCEQ webpage (<https://www.tceq.texas.gov/permitting/wastewater>)

Questions/Answers

Laurie Fleet & David Galindo

Question 1: When would the TCEQ packet for delegation authority and Governor office/AE office documents be available for public look. Can members of the public see it now?

Answer: It is our understanding of EPA's review process that the application will go through public review and comment once it's submitted to EPA.

Question 2: Will the new permit be numbered TXG310000?

Answer: Yes, our oil and gas general permit that we are developing to replace EPA's TXG33 and TXG26. The number that we're assigning to that general permit is TXG310000.

Question 3: What about public comment on General permit 31? Can public comment on general permit or does one wait until after EPA review?

Answer: During our general permit development process we're going to have to develop the general permit and then from there it would go through an EPA review. EPA has 90 days to review our draft general permit then provide us either a no objection letter or comment and so we wouldn't go through public notice of that general permit until after we receive EPA's approve.

Question 4: When do you anticipate EPA delegation?

Answer: We're expecting to get the application submitted to EPA soon, once we submit it, EPA review and approval process starts. We do not wish to speak incorrectly on their process so we are unable to anticipate when we will receive delegation. The EPA has a 90-day review period as stated previously.

Comment: *(Posted by Mr. Charles McGuire, EPA, Region 6)* Once we get the application, we'll review it for completeness. Once it's declared complete, we will have 90 days to review and decide. During that 90 days we will have a 45 day Federal Register notice and comment period that will include a public meeting.

Question 5: Will exiting NPDES permit holders have to reapply for the TCEQ individual permit right away or wait until their NPDES expires?

Answer: If you have an existing NPDES permit with EPA and your state permit from the Railroad Commission; both of those permits would continue in existence and you would continue complying with those permits until the first one of them expires. So, if one has an expiration date two years from now, and one expires a year from now, we will roll those into a TPDES permit at the earlier of those expiration dates. So, the one that is going to expire a year from now we would end up rolling both permits together and issue you an TPDES permit. When the first one expires our plan is to have developed our draft memorandum of agreement with EPA on how transfer or jurisdiction will occur. So, your NPDES permit will stay in effect until such time that it gets replaced by a TPDES permit that is issued by TCEQ.

Question 6: What is the date of the Commission meeting for the Hydrostatic Test General Permit?

Answer: The Hydrostatic Test general permit is going to Commissioner's agenda on October 21st.

Question 7: What is the status of EPA delegation request?

Answer: We are planning to submit our application for our authority later September early October. We are hoping to get that done rather quickly.

Question 8: Is the 2020 MOA with EPA on TPDES on the website the current version that is being submitted to EPA? Or is this before the Oil and Gas discharge request are added?

Answer: The 2020 MOA that's on the website is an update that we did to the MOA does not address oil and gas delegation. Oil and gas delegation and the revisions to the MOA related to oil and gas will be addressed in an additional MOA revision that's included in our oil and gas application to go to EPA. Our 2020 MOA that was signed in June, is our MOA for our TPDES program. That MOA was developed in 1998, so there was a lot of outdated information, even our agency name. The 2020 MOA was just an update to an old document to bring it up to 2020 to show our organization how we are structured and how we review and process permits. Oil and gas changes will be addressed in our application that we submit to EPA.

Question 9: When do you anticipate EPA to delegation for the revised Hydrostatic Test General Permit?

Answer: EPA already reviewed and approved the hydrostatic test general permit. They approved it before we went out to public notice. We already have EPA approval on the hydrostatic test general permit.

Question 10: Will TCEQ be asking for any budgetary authority for additional staff to run the program beyond that approved by Legislative for 2020/2021 as you develop your LAR? When is the TCEQ LAR due to LBB?

Answer: No, we're going to be implementing the program with the existing FTEs that were provided under House Bill 2771. We already have numerous staff in place to review TPDES permits, so we will be using the same staff through that process for water quality assessment purposes and modeling discharge routes. Any additional staff will be trained specifically for oil and gas permitting and assigning the Federal regs that apply to those permits. Based on the current number of FTEs that we have combined with the new FTEs, we should be in a good position to implement these permits. Most of the permittees are going to fall under authorizations under general permit which is a notice of intent process. It's an automated process to get coverage under that general permit and on the enforcement side as well they received FTEs. We haven't had any discussions at this point or any initiation of asking for additional FTEs.

Question 11: What if the application for an individual permit is pending review and approval by EPA? How is that transferred to TCEQ?

Answer: Based on our discussions with EPA once they delegate the regulatory authority to TCEQ they cannot issue permits. So, if there's a pending permit application with EPA, you would have to apply for a TPDES permit with TCEQ. Essentially that individual permit application that's pending with EPA would be withdrawn and you would apply for a TPDES permit with TCEQ.

Question 12: How will water quality standards for 2021 influence the process at all? Would you apply 2021 standards to permits if standards change?

Answer: All permits must comply with the Water Quality Standards (WQS) that are in effect during development of the permit. If the WQS are revised, permits are re-evaluated for compliance with WQS during the next permitting action (i.e. renewal or amendment) and revised accordingly.

Adjournment

To be added to the HB 2771 stakeholder list for future meetings and correspondence, please email your request to HB2771@tceq.texas.gov.

The meeting will be available for review on our agency YouTube channel <https://www.youtube.com/user/TCEQNews>.