

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

**June 17, 2021 @ 1:30 p.m.
Via MS Teams Live Event**

Meeting Summary

Welcome and Introductions

Robert Sadlier

Status of Oil & Gas General Permits (TXG31 and WQG28)

Chris Linendoll

- Re-cap of what presented at last stakeholder meeting:
 - TCEQ is in the process of developing two new oil and gas general permits following transfer of permitting authority from EPA and the Railroad Commission.
 - TXG310000 – TPDES general permit combining EPA’s existing NPDES General Permit No. TXG330000 (Stripper Wells/Coastal Facilities) and TXG260000 (Territorial Seas Facilities – within 3 miles of coastline)
 - WQG280000 – State-only general permit for the Outer Continental Shelf (3 – 10.2 miles from coastline). Separate TCEQ state authorization under the general permit is required in addition to requiring NPDES authority under EPA’s existing General Permit No. GMG290000. Beyond 10.2 miles only EPA authorization is required as Texas does not have authority to regulate discharges beyond 10.2 miles.
 - Waste streams proposed to be authorized in the general permits include: produced wastewater; well treatment, completion, and workover fluids; deck drainage; sanitary waste; domestic waste; uncontaminated miscellaneous discharges; contaminated miscellaneous discharges; water-based drilling fluids and associated drill cuttings; and drill cuttings associated with non-aqueous drilling fluids. Various waste streams will be prohibited from discharge in certain categories as established in EPA’s 40 CFR Part 435 regulations.
 - As presented previously, the TPDES general permit had been drafted and proceeding through management review, and the state-only general permit was in development.
- Update on progress made since last stakeholder meeting:
 - As the TPDES general permit was briefed through multiple levels of TCEQ management up to the Deputy Executive Director, several technical issues were identified that required further evaluation, including revised modeling protocols for produced wastewater discharges.
 - TCEQ took a step back and had discussions with the U.S. EPA, the Environmental Defense Fund, Offshore Operators Committee, and the Texas Oil and Gas Association. A multitude of Microsoft Office Teams meetings and conference calls have been conducted with these entities. Additionally, coordination with other program areas within TCEQ has occurred.
 - Alongside development of the two general permits, TCEQ has received oil and gas files from EPA and the Railroad Commission and is continuing the development of the individual permitting program.

- Since the last stakeholder meeting, significant progress has been made in developing and revising both draft general permits and associated fact sheets which outline the rationale for the proposed general permits terms and conditions.
- TCEQ is following our well-established general permitting process in developing these two general permits. They certainly fall within the category of a complex general permit. The TCEQ is ensuring a thorough review is conducted, especially since this is a new, complex program for the TCEQ.
- Numerous environmental impact studies developed by the oil and gas industry have been obtained and reviewed by the TCEQ. Updated analytical data for Texas offshore produced wastewater discharges has been obtained and evaluated by the TCEQ. The TCEQ has conducted its own complex CORMIX modeling for produced wastewater discharges. Based on the CORMIX modeling results and updated produced wastewater analytical data, a new reasonable potential analysis has been conducted by the TCEQ. The TCEQ is actively evaluating potential dissolved oxygen impacts for offshore produced wastewater discharges. The TCEQ is conducting additional technical evaluations associated with development of the two general permits.
- Process moving forward:
 - Following resolution of the limited number of pending technical issues, the TPDES general permit will go through review by numerous TCEQ programs impacted by the general permit. The general permit then will be briefed through the TCEQ management chain. Then the general permit will be submitted to U.S. EPA Region 6 for their 90-day review.
 - During EPA's 90-day review period, the draft state-only Outer Continental Shelf general permit will be finalized.
 - Following resolution of any issues EPA identifies during their 90-day review, the two general permits will follow a parallel path forward.
 - The two general permits will be briefed up the TCEQ management chain and proceed to state-wide public notice via publication in the Texas Register and in certain selected newspapers for a 30-day public comment period.
 - Following TCEQ review of all public comments received, response to comments documents will be developed and both general permits will be set on the Commissioner's agenda for their consideration of approval and issuance.

Status of Construction Stormwater General Permit (TXR15)

Rebecca Villalba

- The statewide Construction General Permit (CGP), TXR150000, regulates stormwater discharges from construction activities that disturb greater than one acre of soil.
- The current permit expires on March 8, 2023, and it excludes stormwater runoff from construction activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.
- In March 2021, TCEQ initiated an amendment without renewal to the CGP to expand the applicability for non-exempt oil and gas construction activities.
- The amendment reflects the recent transfer of state and federal regulatory authority for discharges associated with oil and gas exploration, production, processing, or treatment operations, or transmission facilities that occurred on January 15, 2021, following implementation of House Bill (HB) 2771, 86th Legislative Session, 2019.

- The permit amendment:
 - expands the applicability of the CGP to include non-exempt stormwater discharges into surface water in the state from construction activities associated with oil and gas exploration, production, processing, or treatment operations, or transmission facilities, and
 - replaces the EPA-issued 2017 NPDES CGP, TXR10F000, modified June 27, 2019, and expiring February 16, 2022.
- This permit amendment will not change the expiration date and will not have any impact on existing permittees.
 - Existing permittees will not be required to submit new applications and will continue to operate under the terms and conditions of TCEQ's 2018 CGP.
- Entities authorized under the current EPA-issued CGP, approximately 2,000, that have ongoing construction activities will be required to obtain authorization under TCEQ's amended CGP within 90 days of the effective date of the amended permit.
- Where we are in the process?
 - TCEQ sent the draft CGP amendment to EPA for review on April 15, 2021.
 - EPA sent TCEQ an interim objection letter on May 17, 2021.
 - TCEQ sent EPA a response addressing the interim objections for their 30-day re-review on June 10, 2021.
- The CGP amendment is expected to be issued in December 2021.

Compliance Monitoring (DMRs)

Macy Beauchamp

- In May, EPA transferred Enforcement and Compliance data to TCEQ for 31 individually permitted facilities. The list of those facilities will be attached to this meeting's minutes. TCEQ provided instructions on switching program services to email addresses linked to those permits in NetDMR. Since DMRs are required to be reported electronically, all these permittees will need to switch program services to report DMRs for the monitoring period ending June 2021.
- An email reminder was sent to those same email addresses on June 3rd and next week we will start calling those that still have not made the switch to make sure that everyone has the ability to submit their reports timely.
- For permits that EPA is still holding due to pending or active enforcement cases, they will continue to report DMRs to EPA until we send the notice with instructions to make the necessary updates in NetDMR.
- The Compliance Monitoring Team also receives Notices of Noncompliance. The facilities listed in the attached list of 31 and anyone covered by any other TCEQ general permit should submit those notices to the regional office and MC-224. There is a form (Form 00501) on the TCEQ website that should be used to capture information regarding noncompliance events.
- Whether you are current O&G user and you need assistance changing program services or a new user associated to the new general permits and need assistance signing up, please reach out to us for assistance at the NetDMR line at 512-239-3367 or email us at NetDMR@TCEQ.Texas.gov.

- Investigations conducted at the facility:
 - As part of program oversight, TCEQ will conduct investigations of oil and gas wastewater programs and associated activities. If a facility is authorized under an individual federal (NPDES) or TCEQ (TPDES) permit, there will be scheduled comprehensive onsite investigations at a prescribed frequency (e.g., every two years for major sources and every five years for minor sources).
 - In addition to these comprehensive scheduled investigations at major and minor sources, the TCEQ may conduct focused investigations (also scheduled), complaint investigations, or emergency response based on jurisdictional coverage.
 - For FY21, it is anticipated investigations at these facilities will be primarily complaint driven, but TCEQ can schedule investigations as well. If an investigator is already at the site, they can add the wastewater investigation component to meet workplan requirements. Investigations at these facilities are expected to fully begin in FY22.
 - Four additional regional investigators are being hired to investigate the additional facilities for compliance with federal and state permit requirements, to address violations in follow up investigations and to manage agency responses to complaints, emergency response, waste management, and others.
- Response to complaints about wastewater discharges from oil and gas facilities:
 - Complaints against facilities related to their wastewater discharges or unauthorized discharges of wastewater should be reported to the TCEQ. All other complaints should be reported to the Railroad Commission (RRC). If a complaint is submitted to the wrong agency, it will be referred to the correct agency responsible for investigating.
 - Information on making environmental complaints is available on the TCEQ website at:
 - <https://www.tceq.texas.gov/compliance/complaints>
 - If the complaint is within the TCEQ's jurisdiction, it will be referred to the appropriate regional office.
- Reportable spills:
 - Spills of treated or untreated wastewater that have the potential to reach the waters of the state should be reported to the TCEQ. Wastewater includes produced water, hydrostatic test water, and gas plant effluent. This includes wastewater that is contaminated with crude oil and other hydrocarbons. Spills that are primarily crude oil or other hydrocarbons should continue to be reported to the RRC. These reporting requirements are in addition to any federal reporting requirements, including required notification to the National Response Center. You can find additional information on our spill reporting on the TCEQ website.
 - If you ever have a question on whether a spill or complaint is within TCEQ's jurisdiction, please reach out to our regional offices or Small Business and Local Government Assistance and we can provide additional guidance.

Question & Answer Session

Question 1: Question is for Macy regarding a new NetDMR instance. Facility received instructions to switch to TCEQ instance. If facility is ready to terminate NPDES permit (now TCEQ permit); should facility terminate before or after submitting DMRs for June 30th monitoring period?

Answer: You can submit your termination paperwork prior to submitting your DMRs as long as you have already switched the program service and are in the Texas NetDMR system to have the ability to submit the reports.

Question 2: What is the process for an individual NPDES permit for oil and gas companies?

Answer: Individual industrial wastewater discharge permit applications are available on TCEQ's website. TCEQ has received authority from EPA to regulate NPDES oil and gas discharges, and TCEQ is the permitting authority for NPDES oil and gas discharges. Applicants file an individual permit application that will go through numerous program area reviews that result in development of a draft individual permit. Applicants will have an opportunity to review and provide comments on the draft general permit. This category of TPDES permits are subject to EPA review and approval. Two rounds of public notice are required for individual TPDES permits. Provided no public comments are received during the comment period, the permit will be issued. If public comments are received, a response to comments will be developed. Should a contested case hearing request be received, the permit application and draft permit will be set on the TCEQ Commissioners agenda for their consideration of granting the request for a contested case hearing. Should hearing requests be granted, the permit application and draft permit will be sent to the State Office of Administrative Hearings (SOAH) to conduct a hearing. Following that process SOAH's proposal for decision (PFD) will be forwarded to the TCEQ commissioners and the item will be set on TCEQ commission agenda for a final decision.

Question 3: For Rebecca, could you go into the specific oil and gas facilities that will be added to the amended CGP?

Answer: The Construction General Permit amendment will allow non-exempt oil and gas facilities, or facilities who lose their exemption, to obtain coverage for discharges of stormwater into surface water in the state from construction activities associated with oil and gas exploration, production, processing, or treatment operations, or transmission facilities. Entities with potentially exempt stormwater discharges are generally defined by the following North American Industrial Classification System (NAICS) Codes and Titles:

- 211 – Oil and Gas Extraction;
- 213111 – Drilling Oil and Gas Wells;
- 213112 – Support Activities for Oil and Gas Operations;
- 48611 – Pipeline Transportation of Crude Oil; and
- 48621 – Pipeline Transportation of Natural Gas.

Those required to have CGP coverage are typically downstream from an oil and gas exploration, production, processing or treatment operation, or transmission facility, and they involve or support the physical and/or chemical transformation of raw materials into final manufactured products for sale. For example, construction of an ethanol plant or construction of administrative buildings, parking lots, and roads servicing an administrative building at an oil and gas site, as these are considered traditional construction activities. For a list of non-exempt facilities and activities (not exhaustive), please refer to EPA's webpage at:
<https://www.epa.gov/npdes/oil-and-gas-stormwater-permitting>.

Question 4: Will this process regulate SWD wells?

Answer: TCEQ received authority to regulate discharges into surface waters in the state via HB 2771. Underground injection of oil and gas waste are not authorized in this program and will continue to be regulated in the manner established prior to HB 2771.

Question 5: Can an O&G operator seek coverage under an Individual permit if it's not under the Ag & Wildlife exemption?

Answer: Yes, any facility regulated under the TPDES program has the option of obtaining an individual permit. General permits are being developed for onshore stripper wells, coastal facilities, and offshore facilities. Oil and gas facilities will have the option to obtain coverage under these general permits should they qualify under the terms and conditions of these general permits. Alternatively, these facilities which could qualify for coverage under the general permit(s) have the option of obtaining a general permit. Oil and gas extraction facilities located west of the 98th meridian will not qualify for general permits being developed by TCEQ and can only be authorized via an individual permit under the Ag & Wildlife Exemption Subcategory in EPA' 40 CFR Part 435 regulations.

Announcements

Robert Sadlier

- TCEQ HB2771 webpage <https://www.tceq.texas.gov/permitting/wastewater/housebill-2771>

Adjournment

Robert Sadlier

Questions regarding Oil and Gas permitting can be sent to HB2771@tceq.texas.gov. If you wish to receive future correspondence, please email your request to HB2771@tceq.texas.gov with "HB2771" in the subject line and include your: a) First & Last Name, b) Company Name, c) Job Title, d) Email address, e) Business affiliation, f) Mailing Address, and g) Phone number.

The meeting recording will be available for viewing after the meeting at TCEQ's Agency YouTube channel: <https://www.youtube.com/user/TCEQNews>.

Thank you