

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

June 15, 2020 @ 1:30 p.m.  
Via Webcast

**MEETING SUMMARY**

**PUBLIC PARTICIPATION:**

The TCEQ Offices are closed to the public. To participate in this meeting, watch the webcast at <https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html>. During the meeting, email your comments/questions to [Outreach@tceq.texas.gov](mailto:Outreach@tceq.texas.gov). Staff will read the comments and respond to questions during the Question/Answer session at the end of the meeting.

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Welcome and Introductions

Commissioner Emily Lindley  
& L'Oreal Stepney

**Commissioner Emily Lindley**

I want to thank Laurie and Rob who set up this phone call and stakeholder meeting today. Everything's new and different in this COVID world but we're adjusting and adapting as best we can. I hope it works out today and I appreciate everyone's flexibility and participation in how we operate today's meeting.

I will just report that things are going well. I also want to thank EPA Region 6. They have been wonderful to work with and a wonderful partner. I think Charles McGuire's on the call today. I'm not sure what other Region 6 folks might be listening in, but a special thanks to him, Regional Administrator McQueen and all of EPA Region 6 for working with us diligently to get this up to them, to get our questions answered, and being a good partner to work with.

Probably the biggest announcement I'll make today is that we anticipate getting our package up to EPA way ahead of schedule. As you all know we're required by statute to submit it by next September 2021. At the rate we're going right now we're looking to submit our complete package this September/October.

**L’Oreal Stepney**

I want to say a special thank you to EPA as well as the different offices in the agency for working so diligent on this. Office of Water, Office of Legal Services, Office of Compliance and Enforcement, as well as our state partners the Attorney General's office and the Railroad Commission. We appreciate everyone's partnership.

**Rulemaking: O&G Effluent Limitation Guidelines**

**Laurie Fleet**

**30 TAC §305.541 Revisions**

The rule is one of several steps necessary to implement House Bill 2771 from the 86th Legislative Session. House Bill 2771 requires the TCEQ to submit a request to the United States Environmental Protection Agency (EPA) for authority for TCEQ to issue federal permits for discharges of produced water, hydrostatic test water, and gas plant effluent into water in the state resulting from certain oil and gas activities.

The rule amends 30 Texas Administrative Code (TAC) §305.541 to adopt by reference the EPA’s effluent limitations guidelines for the oil and gas extraction point source category and the centralized waste treatment category which are found in 40 Code of Federal Regulations Parts 435 and 437. Additionally, the rule defines the term “produced water” which is used in HB 2771.

The rule was published in the Texas Register on January 10, 2020. A public hearing was held on February 4, 2020 and the comment period closed on February 11, 2020. Public comments were received and responses were developed. The commission adopted the revisions to 30 TAC §305.541 on May 20, 2020.

**Revise Hydrostatic Test General Permit**

**David Galindo**

We are amending (without renewal) Texas Pollutant Discharge Elimination System (TPDES) general permit TXG67000 which authorizes the discharge of hydrostatic test water from new vessels; existing vessels which contained raw water, potable water, or elemental gases; or existing vessels which contained petroleum substances or waste related to petroleum substances. This general permit is being amended without renewal. Entities authorized under the existing general permit are not required to submit new NOIs and are authorized to continue to operate under the terms and conditions of the existing general permit.

The permit amendments will allow discharges of hydrostatic test water from new and existing vessels 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 U.S. Environmental Protection Agency (EPA) to regulate these activities under the Texas Pollutant Discharge Elimination System.

Prior to TCEQ getting EPA approval to regulate oil and gas facilities, these entities would continue to be required to obtain authorization to discharge from both the EPA and RRC. Additionally, land application of hydrostatic test water from oil and gas facilities will continue to be authorized by the Railroad Commission.

Other amendments include the following:

- added a provision prohibiting the discharge of PCBs. Facilities seeking to discharge hydrostatic test waters from natural gas pipelines must certify in the NOI that the pipeline has been tested and certified free of PCBs, or compressors and other equipment that contained PCBs were never used on the pipeline.
- prohibited the discharge of cleaning/rinsing wastewater as well as materials removed from a vessel prior to conducting a hydrostatic test.
- established minimum analytical levels (MALs) for benzene, toluene, ethylbenzene, total xylenes, total lead, and total residual chlorine to allow submittal of analytical results as non-detect when appropriate analytical test methods are utilized.
- expanded the provision prohibiting the addition of chemicals to a vessel during the hydrostatic test, except chlorine or tracer dyes, to all vessels. This provision previously only applied to existing vessels that contained raw or potable water.
- added a provision requiring steel pipelines to be free of welding scrap and other foreign materials prior to conducting the hydrostatic test.
- required electronic submittal of the NOI or any of the application forms as well as the Discharge Monitoring Reports (DMRs).

EPA has approved the general permit. We'll publish in the Texas Register most likely occur the first week of July. Our goal is to have this general permit approved when we receive regulatory authority from EPA for oil and gas discharges. This is to ensure that there will not be any lapse in coverage for permittees currently discharging under an authorization issued by EPA.

**Revise TCEQ/Railroad Commission MOU**

**Laurie Fleet**

This rulemaking repealed 30 TAC §7.117, which adopts by reference the Memorandum of Understanding (MOU) between the Railroad Commission of Texas and the Texas Commission on Environmental Quality (TCEQ) found at 16 TAC §3.30, and simultaneously adopted the full text of the MOU between the Railroad Commission and the TCEQ under new 30 TAC Section 7.117. The changes related to the transfer of responsibilities for certain oil and gas discharges from the Railroad Commission to the TCEQ, and the dual authorization of Class II and Class V injection wells.

TCEQ's proposed rules were published in the February 28, 2020 issue of the Texas Register. The public comment period on the proposed rule closed on March 30, 2020. Public comments were received and responses were developed. The commission adopted the revisions to 7.117 on June 10, 2020. The Railroad Commission proposed the rulemaking to implement the MOU on February 11, 2020 and is scheduled to consider adoption of the proposed amendments to the MOU at its open meeting on June 16, 2020.

#### **Develop NPDES Application and TCEQ/EPA MOA**

**Laurie Fleet**

Starting our internal reviews, then submit it to OAG for statement of Legal Authority. Plan is to submit to EPA in Sept/Oct.

1998 MOA was revised to bring up to 2020. The revisions were non-substantive, such as updating the agency name and removing the requirements related to transfer of permits which have been completed. The MOA revision was executed on June 12, 2020.

TCEQ is currently drafting a MOA Addendum that will be included in the NPDES application. The Addendum specifies changes to the MOA related to oil and gas discharges.

#### **Announcements**

**David Galindo**

The next HB2771 stakeholder meeting is going to be held September 17th, at 9:30 a.m., and so it'll be here in Building E, Room 201S. We'll send out reminder notice prior to the next meeting.

#### **Questions/Answers**

**Laurie Fleet**

One last reminder that if you have comments or questions about any of the topics we've discussed today or anything else that you may have comments or questions on related to oil and gas delegation and House Bill 2771, send those to [Outreach@TCEQ.Texas.gov](mailto:Outreach@TCEQ.Texas.gov).

**Question 1:** Is the MOA available on the TCEQ website and if not, will it be available sometime in the near future?

**Answer:** It is not available currently. We just got it from EPA at the end of last week. It will be posted online and available to the public. We'll get that taken care of shortly. Any other comments or questions coming in?

**Question 2:** How has the enforcement process proceeded. I seem to recall there was discussion on who the permitted entity would be such as the drilling company, landowner, et cetera.

**Answer:** The owner/operator is the permittee. We are not changing

from the way EPA is currently permitting these oil and gas facilities. Whomever is the permittee with EPA would be the permittee with us because we have to comply with the Federal regs.

**Question 3:** Do you know if TCEQ is taking permits from EPA after seeking delegation and if so, how many?

**Answer:** Once TCEQ obtains delegation from EPA, the EPA permits will transfer in accordance with the Memorandum of Agreement (MOA) Addendum between TCEQ and EPA. That document is being finalized now. It lays out how that transition is going to occur. The Memorandum of Understanding (MOU) between the TCEQ and the Railroad Commission is 30 Texas Administrative Code (TAC) section 7.117 that I mentioned was recently adopted. It lays out how the transfer of jurisdiction will occur between the Railroad Commission and TCEQ.

We don't have a real firm number at this point from the two agencies on the number of permits that we'll be transferring. Railroad Commission's permits are either 60-day or 90-day permits and so the number of permits is constantly in flux. I believe EPA has about 50-55 permits.

\*Received clarification from Tiffany Humberson, Manager, Environmental Permits & Support, Railroad Commission following meeting adjournment.

**Ms. Humberson commented:** The Hydrostatic Test permits are 60-day permits. All other discharge permits are 5 years.

## Adjournment

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

The meeting will be available by webcast at the time of the meeting at <https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html> and after the meeting at <https://www.youtube.com/user/TCEONews>.