TCEQ Water Quality Advisory Work Group (WQAWG)
Stakeholder Meeting

January 16, 2024 @ 1:30 p.m.
Building E, Room 201S

Final Meeting Summary

Moderator: Gregg Easley

Welcome and Introductions

Permitting Program-Specific Updates:

SB1289 Implementation Activities — Gregg Easley

- SB 1289 was passed in the last legislative session and allows for alternative disposal of reclaimed water.
- The bill made changes to Chapter 26 of the Texas Water Code, and in turn requires the initiation of rulemaking to amend Texas Administrative Code Chapters 210 and 321.
- Water Quality Division staff have started the process and are currently working on the development of the draft rule, changes to application forms, and revisions to existing authorization language.
- Erika Crespo is the rule project leader and can be contacted at Erika.Crespo@tceq.texas.gov.
- Two questions were received:
    - Is there an ETA for when the public comment period will begin for SB 1289 rule changes/revisions to 30 TAC Ch 321 & Chapter 210? At this time, we are still working on finalizing the draft rule text language for 30 TAC Chapters 210 and 321P, as well as revisions to application form(s) and authorization template(s). Prior to soliciting public comments, we will need to complete internal and management reviews, as well as receive the approval of our Commissioners to move forward with publishing our rulemaking project in the Texas Register. As the project manager for this rulemaking initiative, I do not anticipate us getting to the public participation/comment phase prior to May 2024, and I will have more of an update to provide on this by the next WQAWG stakeholder meeting in April.
    - Is there a link to the sections being changed related to SB 1289? See above response.

ePermits IP apps – coming soon May 2024 — Erwin Madrid

- Water Quality Division is working to develop an application for customers to apply for an Individual Municipal or Industrial Permit online. The Application Review and Processing Team (ARP) is currently working on testing and process development for an anticipated May 2024 rollout. Stay tuned for updates as we progress in this exciting effort.
- We had two questions:
    - Where will the application be available for viewing once this goes online? The TCEQ and Water Quality Division will be posting the applications to the TCEQ website.
    - Where can the Notice of Receipt and Intent (NORI) be viewed? The NORIs can currently be viewed on the TCEQ's website: https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices

Oil and Gas Extraction General Permit (TXG310000) Adam Luvian

Background Information

- TCEQ was transferred permitting authority for discharges into surface waters in the state for gas plants and oil and gas extraction facilities by House Bill 2771 during the 86th Legislative Session in 2019.
- TCEQ Commission approved of adoption of TXG310000 January 10th 2024
- Upcoming information and guidance will be updated on our webpage about processing NOT NOC NOI's after the official signing of permit approval.

Oil and Gas Outer Continental Shelf General Permit (WQG280000) Adam Luvian

- TCEQ was transferred permitting authority for discharges into surface waters in the state for gas plants and oil and gas extraction facilities by House Bill 2771 during the 86th Legislative Session in 2019.
- TCEQ Commission approved of adoption of TXG280000 January 10th 2024
- Upcoming information and guidance will be updated on our webpage about processing NOT NOC NOI's after the official signing of permit approval.

Temporary Waivers for eReporting Under Certain NPDES Permits Rebecca Villalba

- The WQ Division has issued temporary waivers from electronic reporting for various TPDES general permits and individual permits. The waivers are needed since the electronic reporting tools/systems are not ready.
- The temporary waivers were mailed out to the following group of permittees in December 2023:
    - POTWs with municipal wastewater permits for electronic submissions of the reports for unauthorized discharges and unanticipated bypasses (or SSOs).
    - POTWs with a municipal wastewater permit with an approved pretreatment program for electronic submissions of the annual reports.
    - Phase I MS4 individual permits for electronic submissions of the annual reports.
    - Confined Animal Feeding Operations (CAFOs) individual permits for electronic submissions of the annual reports.
    - Confined Animal Feeding Operations (CAFOs) general permit TXG920000 authorizations for electronic submissions of the annual reports and applications.
- Permittees have a temporary waiver until December 21, 2025 to start submitting the required reports electronically using the EPA's reporting systems applicable to their respective programs.
- This notification letter is the only correspondence permittees will receive concerning the Temporary Waiver for Electronic Reporting. Keep the document in your records and continue to submit your required reports via paper until December 21, 2025.
- Electronic Reporting Waivers are not transferrable. If the permittee changes, the new permittee will receive a temporary waiver that will be effective from the date of the authorization to December 21, 2025.
- For questions related to this waiver you may contact the Small Business and Local Government Assistance Program by email at TexasEnviroHelp@tceq.texas.gov or by telephone at 800-447-2827.

General Permit Updates:

Concentrated Animal Feeding Operation (CAFO) General Permit (TXG920000) 2024 Renewal — Brian Sierant

- The current permit expires on July 20, 2024 and we are proposing to renew.
- The primary change to the GP that's being proposed is the addition of requirements associated with the use of an anaerobic digester at a CAFO site. These are the same requirements that are currently included in an individual permit for a CAFO utilizing a digester in their operation.
- We had a 2-week informal comment period. Comments received are considered but not responded to through a formal response to comments document. Three timely comment letters were received, and changes were made to the draft permit as a result of the comments from the Texas Poultry Federation by:
    - revising the definition of design rainfall event to reference NOAA, which will allow the use of rainfall data from NOAA in the engineering design of CAFO facilities; and
    - references to cattle were removed from the digester requirements since the GP regulates other species of livestock and poultry.
- The other comments could not be accommodated because they required changes to provisions of the GP that are based on CAFO rules. The EPA did not have comments during its 90-day review.
- The notice will be published on January 19th in the Texas Register, statewide in the Houston Chronicle and also in local dairy operated areas in the Stephenville Empire Tribune, Amarillo Globe-News, and the Lubbock Avalanche Journal. This notice will provide for the normal 30-day formal comment period.
- The public meeting will be held on February 20th in Building F, 2nd floor, Room 2210 instead of the Commission Agenda Room. This public meeting will also be the last day to submit formal comments.
- After the close of the formal comment period, we will review the comments, make any necessary changes to the draft GP, and develop a response to comments.
- We plan to take the final proposed GP before the Commission for adoption in June 2024.

Small (Phase II) MS4 General Permit (TXR040000) 2024 Renewal — Macayla Coleman

- This general permit regulates stormwater discharges from small or Phase II Municipal Separate Storm Sewer Systems (MS4s) and expires on January 24, 2024.
- The renewal process started in May 2022, and a stakeholder meeting was held on September 27, 2022.
- EPA approved the draft general permit on June 9, 2023.
- On June 12, 2023, EPA published a final rule (*NPDES Small MS4 Urbanized Area Clarification,* effective July 12, 2023*)* to replace the term "urbanized area" in the Phase II regulations with the phrase "urban areas with a population of at least 50,000"
    - This phrase is the Census Bureau's longstanding definition of the term "urbanized area."
    - EPA finalized this rule in response to the Census Bureau's decision to discontinue the use of the term Urbanized Area in the 2020 Decennial Census and future Censuses.
    - TCEQ revised the proposed Phase II MS4 permit and fact sheet to encompass this new terminology and to extend applicability to newly regulated MS4s based on the urban areas with a population of at least 50,000 in the 2020 Decennial Census.

        - The number of newly regulated small MS4 operators seeking coverage under the general permit is expected to increase, but an exact estimate cannot be determined at this time.
            - Approximately 200 new small MS4s are expected to be regulated as a result of the 2020 Decennial Census.
    - The final rule is available on the EPA website: https://www.epa.gov/npdes/final-phase-ii-rule-clarification-related-census-bureau-urban-area-designation-criteria
    - EPA has provided an interactive map of all the 2020 Urban Areas and a table of the 2020 Urban Areas with their populations: https://www.epa.gov/npdes/urban-area-maps-npdes-ms4-phase-ii-stormwater-permits
    - Customers can cross reference the population tables and the map to identify the Urban Areas with a population of at least 50,000 within Texas.
    - For more information regarding the 2020 Urban Areas in the proposed Phase II MS4 General Permit, visit our new census webpage: https://www.tceq.texas.gov/permitting/stormwater/ms4/urbanareas

- TCEQ published the proposed general permit and fact sheet in the *Texas Register* and the *Houston Chronicle* on August 25 and 18, 2023, respectively.
    - The public comment period ended on September 25, 2023.
    - A public meeting was held on September 18, 2023.
    - The proposed permit and fact sheet are available on the TCEQ Phase II MS4 webpage.
    - At the meeting TCEQ presented the proposed changes:
        - A move from a "two-step permit" to a "comprehensive permit"
            - The master general permit will be prescriptive and include all the requirements that MS4 operators must implement and therefore remove the need for MS4 operators to submit individual Stormwater Management Programs (SWMPs) for review and approval by TCEQ and public notice.
        - Proposed permit language for the best management practices (BMPs) and measurable goals under some Minimum Control Measures (MCMs) was shared with the stakeholders.
        - Implementation of electronic reporting for applications and annual reports. TCEQ will use EPA's Net-MS4 system.
            - Revised the annual reporting year options to only allow for one reporting year schedule rather than three as required by EPA's NeT-MS4. Calendar Year would be the available reporting option as this is the most common option used by permittees currently.
            - Revised the list of MCMs to separate MCM 1 - Public Education, Outreach, and Involvement to match the federal rules: MCM 1 - Public Education and Outreach and MCM 2- Public Involvement/Participation. The remaining MCMs are renumbered as MCMs 3-8.
    - The meeting presentation is available online on our Stormwater Stakeholders Group Webpage: https://www.tceq.texas.gov/permitting/stormwater/stormwater_stakeholders_group.html

- TCEQ received comments from 15 entities who submitted about 100 individual comments that are addressed in the final Executive Director's Response to Comments Document with similar comments combined.
    - The general permit and fact sheet have also been revised as a result of the comments.
- Due to delays in the set-up of the electronic application system, NetMS4, TCEQ has delayed the issuance of this general permit.
    - TCEQ anticipates presenting the general permit for adoption at the Commissioners Agenda in **August 14, on2024,** and issuing this general permit in August 2024.
    - Small MS4 operators with active authorizations will be granted administrative continuance of their existing authorization until the renewal permit is issued in August 2024.
        - During administrative continuance, TCEQ cannot process any Notice of Change requests. Existing small MS4 operators must continue to implement any ongoing items in their most recently TCEQ approved stormwater management program until new authorizations are issued under the 2024 renewal permit.
            - Year 5 Annual Report must continue to be submitted according to the schedules defined in the general permit.
            - The delay period will be addressed in the annual reports submitted under the 2024 general permit – further guidance will be provided on the TCEQ webpages at a later date.
        - New small MS4 operators will be unable to seek coverage until the General Permit is renewed in August.

Multi-Sector General Permit (TXRO50000) Amendment Rebecca Villalba

- This general permit regulates stormwater discharges from industrial activities and expires on August 14, 2026.
- The current permit excludes stormwater runoff from industrial 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.
- TCEQ is initiating an amendment without renewal to the permit to address two items:
    - Implement HB 1688 from the 88th Regular Legislative Session and effective September 1, 2023; and
    - Expand the applicability for non-exempt oil and gas activities. The revision is in response to the transfer of state and federal regulatory authority to TCEQ for discharges associated with crude oil and natural gas exploration, development, and production facilities.

  Please note that this permit amendment will not have any impact on existing permittees. The expiration date will not change. Permittees will continue to operate under the terms and conditions of TCEQ's 2021 MSGP.
- The purpose of the amendment is to:
    - prohibit quarries located in the new Coke Stevenson Scenic Riverway from obtaining stormwater coverage under the MSGP;

    - include in the general permit applicability non-exempt stormwater discharges from industrial activities associated with crude oil and natural gas exploration, development, and production; and
    - replace the EPA-issued NPDES Multi-Sector General Permit TXR05F000, effective September 29, 2021, and expires February 28, 2026.
- Proposed changes include:
    - Revise Limitations on Permit Coverage to include that quarries located in the new Coke Stevenson Scenic Riverway are not authorized the discharge of stormwater runoff described in the state statute under TWC §26.553.
    - Expansion of the applicability of the general permit to include non-exempt stormwater discharges from industrial activities associated with crude oil and natural gas exploration, development, and production.
    - Operators with active authorizations under the existing general permit (effective August 14, 2021) will not be required to submit new or renewal NOIs and are authorized to continue to discharge under the terms and conditions of the existing general permit.
    - Operators authorized under the EPA-issued NPDES Multi-Sector General Permit will be required to obtain authorization under TCEQ's amended general permit within 90 days of the effective date of the amended general permit.
- TCEQ anticipates issuing this permit amendment without renewal prior to the expiration of the EPA-issued NPDES Multi-Sector General Permit in February 2026.
- The CWA § 402(l)(2) provides that stormwater discharges from industrial activities related to oil and gas exploration, production, processing, or treatment, or transmission activities are exempt from regulation under this permit. The term "oil and gas exploration, production, processing, or treatment operations or transmission facilities" is defined in 33 United States Code Annotated § 1362(24).
- For more information about exempt oil and gas activities, visit the following webpage: https://www.epa.gov/npdes/oil-and-gas-stormwater-permitting

Rule Updates:

30 TAC Chapter 321, Subchapter P and Chapter 210 (Reclaimed Water) — Gregg Easley

- See "SB1289 Implementation Activities" topic above (same topic).

30 TAC Chapter 321, Subchapter B (CAFOs) – Dairy Waste — Brian Sierant

- This rulemaking is required to implement House Bill 692, from the recent Regular Legislative Session and is a result of the need for other means to dispose of dairy waste by dairy farm operators and required that the rules be adopted no later than March 1, 2024.
- This grants TCEQ rulemaking authority to issue an authorization by rule for land application of dairy waste, adopt rules governing that land application by allowing the disposal of dairy waste from permitted CAFOs and unpermitted AFOs into a control or retention facility including a lagoon or playa; and to authorize land application by irrigation associated with that disposal.
- WQD drafted an initial set of proposed rules but they were pulled back in response to feedback received to broaden the scope of the rules. We are currently working on developing new proposed rules and hope to have draft rules ready for consideration within the next couple of months.

30 TAC Chapter 311, Subchapter H (Regulation of Quarries in the John Graves and Coke Stevenson Scenic Riverways) — Macayla Coleman

- TCEQ has started the rulemaking process to amend 30 TAC Chapter 311, Subchapter H, to implement HB 1688 from the 88th Regular Legislative Session. HB 1688 was effective on September 1, 2023.
    - The bill amends Texas Water Code, Chapter 26, Subchapter M, Water Quality Protection Areas, by expanding the pilot program originally established for quarries in the John Graves Scenic Riverway to include the Coke Stevenson Scenic Riverway. The Coke Stevenson Scenic Riverway is defined as the South Llano River in and its contributing watershed in Kimble County, located upstream of the river's confluence with the North Llano River at the City of Junction.
    - The bill establishes the same requirements for quarries in the Coke Stevenson Scenic Riverway as the existing statute requires for quarries in the John Graves Scenic Riverway; requiring permitting (individual permit or a general permit based on the proximity to the river), financial responsibility, inspections, sampling, cost recovery, and enforcement programs.
    - The bill also extends the pilot program by two years, to expire on September 1, 2027, instead of September 1, 2025.
- On January 10, 2024, the Commission granted approval for the publication of the proposed rule and public hearing notice in the *Texas Register*. This is tentatively scheduled to be included in the January 26, 2024 issue of the *Texas Register*.
    - More information is available on the TCEQ Proposed Rule Webpage: https://www.tceq.texas.gov/rules/prop.html
- A Public Hearing on the proposed rule is tentatively scheduled for February 26, 2024, in Austin, Texas.
    - The public hearing will be held at 9:30 a.m. in Building F, Conference Room 2210 at TCEQ's Central Office located at 12100 Park 35 Circle, Austin, TX.
    - For the public who do not wish to provide oral comments but would like to view the public hearing virtually may do so at no cost using the Microsoft TEAMS virtual meeting link provided in the rule back up materials: https://teams.microsoft.com/l/meetupjoin/19%3ameeting_NzU0MTIxMzQtNDc0Zi00YmZiLTg1NDEtZjdlZmZkODdjZWM5%40thread.v2/0?context=%7B%22Tid%22%3A%22871a83a4-a1ce-4b7a-81563bcd93a08fba%22%2C%22Oid%22%3A%22e74a40ea-69d4-469d-a8ef06f2c9ac2a80%22%2C%22IsBroadcastMeeting%22%3Atrue%2C%22role%22%3A%22a%22 %7D&btype=a&role=a
- In early 2023, TCEQ started the renewal process for the general permit, TXG50000, known as the John Graves quarries general permit.
    - The existing general permit regulates stormwater and wastewater discharges from quarries in the John Graves Scenic Riverway portion of the Brazos River Basin and expires on March 29, 2024.
    - The renewal process is delayed due to the implementation of HB1688 which requires changes to this general permit, including renaming the general permit to the "Quarries General Permit".
    - Since the rulemaking will not be completed prior to the expiration of the general permit, TCEQ published on December 29, 2023, the Notice of Intent to Reissue in the *Texas Register* and provide notification to permittees.

- The general permit and the six existing authorizations will be administratively continued until the rulemaking to implement HB1688 and the general permit renewal is completed.
- TCEQ anticipates sending the draft Quarries General Permit to EPA for their review this spring.

Questions & Answers Gregg Easley

Announcements:

- Pretreatment Stakeholder Group meeting will be held on January 18, 2024 @ 1:00 p.m.
- The next WQAWG Meeting will be held on April 16, 2024 @ 1:30 p.m.

Adjournment

WQAWG website: https://www.tceq.texas.gov/permitting/wastewater/WQ_advisory_group.html
This WQAWG meeting recording will be available for viewing on the TCEQ agency YouTube channel at: https://www.youtube.com/user/TCEQNews

Webcast attendees: Please submit an email to Outreach@tceq.texas.gov with **"WQAWG"** in the subject line and include your title/contact Information (business affiliation and phone number) to be registered on the attendance roster. You may submit this information in advance.

Meeting attendees:

If you wish to join the WQAWG Stakeholder group, please submit an email to Outreach@tceq.texas.gov with "WQAWG" in the subject line and include your:
a) *First & Last Name*, b) *Company Name*, c) *Job Title*, d) *Email*, e) *Business affiliation*, f) *Address*, and g) *Phone number*.

Thank you.