

Texas Commission on Environmental Quality
WATER QUALITY ADVISORY WORK GROUP (WQAWG)
Stakeholder Meeting
July 20, 2021 @ 1:30 p.m.
Virtual Meeting via MS Teams Live Event
Draft Meeting Summary AGENDA

Moderator:

Gregg Easley

Welcome and Introductions

Wastewater Permitting Process Updates:

Robert Sadlier

Electronic Application Submissions

Water Quality Division will begin requiring electronic copies of applications in addition to the required physical copies for all water quality applications. Electronic copies of applications will be accepted via file transfer protocol (FTP). An announcement will be made on the public website and via outreach email. Instructions for using FTP to submit will also be provided. Estimated start date is August 1, 2021.

Returning Deficient Applications

Water Quality Division (WQD) is working to reduce permitting timeframes. WQD has and will continue to return deficient applications when applicants fail to respond to the 30-day notice of deficiency. Additionally, WQD is developing policy guidelines for returning applications submitted with significant deficiencies.

Permitting Program-Specific Updates:

Electronic Biosolids Annual Report

Laurie Fleet

Beginning in September 2021, Texas Pollutant Discharge Elimination System (TPDES) permittees—that are required to submit sludge discharge monitoring reports (DMRs) and an annual report—are required to submit that information electronically using the EPA NPDES eReporting Tool for Biosolids (“NeT-Biosolids”). Sludge DMRs will not be available in NetDMR.

Impacted TPDES permittees received an email in June with guidance and instructions to add the Biosolids program to their existing Central Data Exchange (CDX) accounts. For questions related to using NeT-Biosolids, please email BioTool@tceq.texas.gov.

Permit Renewal Deadline:

Laurie Fleet

180 Day Renewal

Every individual permit requires the permittee to submit a renewal application at least 180 days prior to the permit expiration date. We historically haven’t been enforcing this requirement. However, this requirement will be monitored and flagged as a violation if the renewal application is submitted less than 180 days from the expiration date.

O&G Stakeholder Group now part of WQAWG

O&G general permit (GP) development: two GPs in the oven

- One GP is for stripper wells, onshore facilities, & territorial seas facilities (<3mi)
- One GP is for Outer Continental Shelf facilities (between 3 and 10.2 miles)
- This is unlike former GPs we have done (totally new)
- We have had numerous discussions with involved stakeholders, including: the U.S. EPA, the Environmental Defense Fund, Offshore Operators Committee, the Texas Oil and Gas Association, and oil and gas environmental consultants.
- We are treating O&G facilities as we do all others, while working to accommodate what is unique to them.

Ten permittees had applications pending with the Railroad Commission (RRC):

- We have been in contact with all ten.
- That we know of, eight are currently preparing a TPDES application.
- The other two still need to fill out a TCEQ TPDES application, unless of course they are no longer planning to discharge.

Three permittees had applications pending with the EPA:

- All were individual hydrostatic discharge permits.
- They are either availing themselves of the TCEQ GP for hydrostatic test wastewater or not presently in need of an authorization.

- We are working with seven existing EPA permittees who did not have pending application and are actively preparing a TCEQ individual TPDES application.
- We are working with two new permittees preparing individual industrial TPDES applications.
 - The TCEQ has not yet received any applications for individual TPDES permits for an oil and gas facility.
 - Majority of staff time:
 - o Guiding oil and gas hydrostatic test water dischargers seeking coverage under TXG670000 and
 - o answering questions from other oil and gas permittees.

HB 2771 Implementation – Oil and Gas

Rebecca Villalba

Transfer of state and federal regulatory authority to TCEQ from the Texas Railroad Commission and EPA for non-exempt stormwater discharges associated with crude oil and natural gas exploration, development, and production facilities occurred on January 15, 2021, following implementation of House Bill (HB) 2771, 86th Texas Legislative Session (2019).

- Existing permittees continue to operate under EPA's issued Construction General Permit (CGP) and Multi-Sector General Permit (MSGP).
- New entities in Texas continue to apply to EPA under the Texas CGP TXR10F000 and MSGP TXR05F000 that are part of EPA's national permits until TCEQ issues their amended TPDES CGP and MSGP.
- TCEQ is amending the CGP to be issued prior to EPA's CGP expiring on Feb. 16, 2022.
- TCEQ will amend its MSGP at a later date after the renewal permit is issued on Aug. 14, 2021.

General Permit Updates:

Construction General Permit (TXR150000): Amendment for Oil and Gas and 2023 Renewal

Rebecca Villalba

- This general permit regulates stormwater discharges from construction activities and expires on March 8, 2023.
- The current permit 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.
- TCEQ initiated an amendment without renewal to the permit to expand the applicability for non-exempt oil and gas construction activities in response to the recent 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 TXR150000 permittees. The expiration date will not change. Permittees will continue to operate under the terms and conditions of TCEQ's 2018 CGP.
 - Existing oil and gas activity permittees continue to operate under EPA's issued Construction General Permit (CGP).
 - New oil and gas activities in Texas continue to apply to EPA under the Texas CGP TXR10F000 that is part of EPA's national permits until TCEQ issues their amended TPDES CGP.
- The purpose of the amendment is to:
 - include in the general permit applicability non-exempt stormwater discharges from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities and
 - replace the EPA-issued NPDES Construction General Permit TXR10F000, effective June 27, 2019, an expires February 16, 2022.
- TCEQ sent the permit amendment without renewal to EPA for review on April 15, 2021. EPA responded with an interim objection letter dated May 17, 2021.
- TCEQ sent a revised permit to EPA for review in response to their comments on June 10, 2021. TCEQ anticipates receiving another interim rejection letter from EPA based on informal feedback from EPA staff on June 21, 2021.
- Proposed changes include:
 - Expansion of the applicability of the general permit to include non-exempt stormwater discharges from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities.
 - Operators with active authorizations under the existing general permit (effective March 5, 2018) 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 Construction General Permit that have ongoing construction activities 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 Construction General Permit in February of 2022.

Exempt Oil and Gas Activities

- The CWA § 402(l)(2) provides that construction 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).
- The exemption in CWA § 402(l)(2) includes construction activities regardless of the amount of disturbed acreage, which are necessary to prepare a site for drilling and the movement and placement of drilling equipment, drilling waste management pits, in field treatment plants, and in field transportation infrastructure (e.g., crude oil and natural gas pipelines, natural gas treatment plants, and both natural gas transmission pipeline compressor and oil pumping stations) necessary for the operation of most producing oil and gas fields.
- The exemption does not include the 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 more information about exempt oil and gas activities, visit the following webpage:
<https://www.epa.gov/npdes/oil-and-gas-stormwater-permitting>

Multi-Sector General Permit (TXR050000) Renewal

Rebecca Villalba

- This general permit regulates stormwater discharges from industrial activities.
- The general permit expires on August 14, 2021, and we started the renewal process on Sep. 2019.
- The public notice for the draft general permit was published in the *Texas Register* and seven newspaper across the state on December 11, 2020, to start the formal public comment period.
- A public meeting was held on January 11, 2021, where the public could ask questions about the draft permit and provide comments. Approximately 230 people participated in the meeting and seven individuals provided formal oral comments during the meeting. The presentation is available at the following webpage:
https://www.tceq.texas.gov/permitting/stormwater/stormwater_stakeholders_group.html.
- The public comment period ended on January 14, 2021. Comments were received from approximately 22 entities and individuals.
- Management briefings occurred in May for the Adoption phase of the renewal process.
- The MSGP went to Commissioners Agenda for adoption on July 14, 2021.
 - The commission approved the renewal of the MSGP and will be issued with an effective date of August 14, 2021.
- Facilities with an existing active MSGP authorization will need to renew their authorization when the renewed MSGP is issued and effective on August 14, 2021. Do not apply prior to this date.
 - Facilities will have up to 90 days after the issuance date of the general permit to renew their authorization.
 - Only electronic applications are accepted – unless a request is made and approved for an eReporting waiver.

- Remember to terminate coverage, *if it is no longer needed*, prior to Sep. 1, 2021, to avoid the annual WQ fee for FY22.
- TCEQ will mail out postcards to all entities with an existing active MSGP authorization.
- Will start amendment to MSGP after it is renewed to expand the applicability for oil and gas.

Concrete Batch General Permit (TXG110000) Renewal

Laurie Fleet

Project Overview: The TCEQ is proposing to renew the Concrete Batch General Permit TXG110000, which authorizes the discharge of facility wastewater and stormwater associated with industrial activities into or adjacent to water in the state from ready-mixed concrete plants, concrete products plants, and their associated facilities (SIC 3271, 3272, and 3273). The current permit expires on November 7, 2021.

Project Status: The comment period ended on 7/12/2021.

Next Steps: File Backup on 10/1/2021. Agenda for Issuance on 10/20/21.

Pesticide General Permit (TXG870000) Renewal

Laurie Fleet

Project Overview: The TCEQ is proposing to renew the Pesticide General Permit TXG870000, which authorizes the application of pesticides into or over, including near waters of the United States (U.S.) for the control of mosquito and other insect pests, vegetation and algae pests, animal pests, area-wide pests, and forest canopy pests. The current permit expires on November 2, 2021.

Project Status: The comment period ended on 7/12/2021.

Next Steps: File Backup on 10/1/21. Agenda for Issuance on 10/20/21

Rule Updates:

Sand Mining in the San Jacinto River Watershed: Rule Petitions/Rulemaking and BMPs Guidance Document:

Macayla Coleman

RULE

- The Texas Aggregates and Concrete Association (TACA) and the Lake Houston Area Grassroots Flood Prevention Initiative (FPI) filed separate but similar petitions for rulemaking in June 2020.
 - Both organizations recommended that TCEQ adopt a new rule that would establish best management practices (BMPs) for commercial sand mining and other lawful purposes within the San Jacinto Watershed.
 - The rulemaking would define specific areas within the watershed that would be regulated and would add a new chapter within the 30 TAC Chapter 311 Watershed Protection Rules.
- On August 12, 2020, the commission approved the two petitions to initiate rulemaking with stakeholder involvement.
- TCEQ held a virtual stakeholder meeting was held on November 10, 2020.
- TCEQ drafted the rule based on comments received from stakeholders and internal agency staff.

- We are currently in the Proposal Stage of the rulemaking process.
 - On June 9, 2021, the Commission granted approval to publish the public notice of the draft rule in the *Texas Register*.
 - The proposed rule was published on June 25, 2021 and started the 30-day public comment period that ends on July 27, 2021.
 - A public hearing is scheduled for this Thursday, July 22, 2021.
 - Written comments may be submitted to:

Ms. Lee Bellware, MC 205
Office of Legal Services
Texas Commission on Environmental Quality
P.O. Box 13087, Austin, Texas 78711-3087
 - Or fax to fax4808@tceq.texas.gov.
 - Or electronically at: <https://www6.tceq.texas.gov/rules/ecomments/>.
 - All comments should reference **Rule Project Number 2020-048-311-OW**
- The adoption of the final rule is planned for Commissioners Agenda in November 2021.

BMPs GUIDANCE DOCUMENT

- The petitions and proposed rule would require the TCEQ to develop a guidance document of best management practices (BMPs), so in conjunction with the rule process, TCEQ is also preparing the accompanying guidance document of BMPs that are required by the proposed rule to be implemented by the sand mining operators at their site.
- Staff prepared the draft BMPs document with petitioners’, stakeholders, and internal agency staff input.
 - Many of the BMPs included were presented during the stakeholder meeting held on November 2020.
 - The draft document includes BMPs for Structural controls, Vegetative controls, and controls during the Pre-Mining, Mining, and Post-Mining stages.
- TCEQ held a stakeholder meeting for the BMPs guidance document today, July 20, 2021.
- Stakeholders have 30 days to provide comments on the draft BMPs guidance document. The deadline is Aug. 19, 2021.
- Send written comments via email to: Macayla.Coleman@tceq.texas.gov
 - Include e-mail subject “BMPs Guidance Document”
- We anticipate publishing the final BMPs guidance document concurrently with the effective date of the rule in November of this year.

For more information about the stakeholder meeting or rulemaking petitions visit the following webpage: <https://www.tceq.texas.gov/permitting/stormwater/sand-mining-rulemaking>

Chapter 305 TPDES Consolidation:

Laurie Fleet

During the 2019 quadrennial rule reviews, the we determined that 30 TAC Chapter 308, Subchapters C and J were obsolete. Additionally, the executive director identified several rules related to the Texas Pollutant Discharge Elimination System (TPDES) program that would be more appropriately consolidated with Chapter 305, Subchapter P. These rules include 30 TAC Chapters 308, 314, and 315, which contain adoption by reference of federal regulations, similar to 30 TAC Chapter 305, Subchapter P. This rulemaking proposes to repeal Chapters 308, 314, and 315 and re-proposing them in Chapter 305, Subchapter P, except the obsolete subchapters in Chapter 308. Consolidating these rules would improve the overall organization of TCEQ rules related to the TPDES program.

Lastly, the executive director identified a federal regulation related to cooling water intake structures at oil and gas facilities (40 Code of Federal Regulations Part 125, Subpart N) that was not previously adopted. This rulemaking would adopt this additional federal regulation by reference.

Project Status: The draft rule is currently be reviewed/approved by Division and Office management.

Next Steps: File Backup on Sept 3, 2021. Proposal Agenda on Sept 22, 2021.

Chapter 321/351 Obsolete Subchapters:

Laurie Fleet

This rulemaking is being proposed in response to quadrennial rule reviews wherein the Texas Commission on Environmental Quality (TCEQ, agency, or commission) determined that Chapter 321 Subchapters E, F, and L and Chapter 351 Subchapter D were obsolete.

Chapter 321, Subchapter E regulates discharges from surface coal mining, preparation, and reclamation activities; Subchapter F regulates discharges from the shrimp industry; and Subchapter L regulates discharges from motor vehicles cleaning facilities. These subchapters are obsolete because the Memorandum of Agreement (MOA) between TCEQ and the United States Environmental Protection Agency (EPA) concerning the National Pollutant Discharge Elimination System (NPDES) prohibits TCEQ from issuing authorizations under these subchapters. TCEQ authorizes these discharges under either an individual permit or general permit which comply with all necessary NPDES requirements.

Chapter 351, Subchapter D designates the Rio Grande Valley Pollution Control Authority as a regional wastewater service provider for the Lower Rio Grande Valley Regional Area. This subchapter is obsolete because the Rio Grande Valley Pollution Control Authority no longer exists nor are there any wastewater permits issued to any regional system in this regional area.

This rulemaking would repeal these obsolete Subchapters.

Project Status: The draft rule is currently be reviewed/approved by Division and Office management.

Next Steps: File Backup on Sept 3, 2021. Proposal Agenda on Sept 22, 2021.

Chapter 7 Aquaculture MOU:

Laurie Fleet

This rulemaking would implement portions of Senate Bill (SB) 703, 87th Legislature, which removed the Texas Department of Agriculture's (TDA) roles and responsibilities related to regulation of the aquaculture industry. Previously, the Texas Commission on Environmental Quality (TCEQ or commission), the TDA, and the Texas Parks and Wildlife Department (TPWD) coordinated on regulating the aquaculture industry. This multi-agency coordination was codified in a Memorandum of Understanding (MOU) in Chapter 7.103. This rulemaking would revise the MOU to remove TDA from this multi-agency coordination and making additional updates to the MOU, based on regulatory changes related to the aquaculture industry since the MOU was last adopted. For example, Chapter 321, Subchapter O which allowed permit-by-rule and exemptions was repealed and replaced by the Aquaculture General Permit Number TXG130000.

Project Status: TCEQ initiated discussions with TDA and TPWD and is developing the draft rule based on their input.

Next Steps: File Backup on Oct 29. Proposal Agenda on November 17. These are tentative dates based on TPWD/TDA concurrence on the draft rule.

Questions & Answers

Announcements:

The next WQAWG Meeting will be held on Tuesday, October 26, 2021, @ 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>

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 address, e.) Business affiliation, f.) Address, and g.) Phone number.

Thank you