Texas Commission on Environmental Quality

WATER QUALITY ADVISORY WORK GROUP (WQAWG)

Stakeholder Meeting October 26, 2021 @ 1:30 p.m.

Virtual Meeting via MS Teams Live Event

Final Meeting Summary

Moderator: Gregg Easley

Welcome and Introductions

Wastewater Permitting Process Updates

Efficiency Initiatives Earl Lott

- Timeframes- While being actively involved in Water Quality, I looked at the time frames and the backlog and how long it was taking to get permits out. Since last March we have been in a different posture because of Covid, and I know Covid is partially to blame because you know just like every other industry, we kind of had our world turned upside down and then we had to adjust to working from home. The efficiency measures that were being adopted at that time kind of went on hold well um we've been looking at it again I can tell you in I've been in this program a little over a year now and from day one I started talking about time frames and I will tell you staff has you know that they've done a tremendous job of responding to this and over the last two quarters we have issued a record number of uh permit applications uh in a very short amount of time and uh you know we're going to continue with that trend um next step you know we're going to take a little bit deeper dive and that's what I wanted to talk to you about today um you know as I said we're evaluating every step in the process and tools that we can implement.
- Mandatory Pre-Application Meetings- All new and major amendment applications and the concept behind that is if it's a new or a major amendment application. I'm wanting to encourage all applicants and consultant to come in and sit down with our staff to talk through the application whether that be the administrative portion of the application or the technical portion. A sit-down meeting and go through some of the common areas where we see deficiencies and just talk through it because if we can eliminate those deficiencies from happening that cuts out the back and forth that we have to experience with the applicant, that's on New and Major amendments, Renewal applications we're not necessarily doing it on that just because the volume that that we would have to review and in the thinking on renewals is they've already been through the process so there's not as much to review so that will cut down on some of those meetings.
- Submitting Electronic Application- Requesting that all applications submit applications electronically by doing this it will save a tremendous amount of time. As we adapted to a lot of these things when we started working from home with Covid and electronic applications can really save a lot of time because multiple staff that will be reviewing these applications can review it simultaneously and that saves a tremendous amount of time.

Returning Deficient Applications Earl Lott

- Notice of Deficiencies- We're going to start sending notice of deficiencies electronically. If there is one or two items missing on an application and our staff will either contact the applicant or the consultant for assistance to fill in the blank on this missing information or sending a simple email will suffice for the information. I'm wanting to change the process of sending a 30-day notice of deficiency and allowing additional time for that response to be sent in. If we can cut out the mail U.S mail time and just notify the applicant immediately and kind of on demand as we're going you know that that creates a tremendous amount of efficiency.
- Internal Timeframes- Reducing the internal timelines for staff review of these applications. The goal is cutting that time frame in half and we're putting some pretty aggressive standards in place in Water Quality. I'm expecting applicants to provide us good quality applications that can reviewed in order to be successful with those timeline reviews. Over the next upcoming months staff will review these applications in a timely manner and as efficient in a timely manner as possible. But in all fairness, we're going to expect the same thing from the applicant, I'm not going to hold them to a standard that the applicant is not capable of meeting so it's going to work both ways I'm holding them accountable for meeting the timeline so therefore I'm expecting applicants to provide us good quality applications that they can review in order to be successful with those timeline reviews.

- Revamping Permitting Process- We're starting to evolve with forms and checklists where we're gonna do a lot of electronic forms and checklists making the process easier where we can we're gonna ask questions and have just a simple questionnaire for the consultant to fill out or the applicant. We're going to provide training wherever possible even though we haven't had a trade fair in a few years but at some point, we'll get back to having venues where we can provide training and we get invited to a lot of workshops and seminars so we're going to take every advantage possible of those. When asked to provide training on basics of an application and then another possibility is providing YouTube videos and how to's on Permitting.
- Rural Renewal Applications- We're being diligent about enforcing requirements to submit rural renewal applications 180 days before expiration. In the past we've been a little lack on that these permits are for five years in most cases and the applicants should be aware of that renewal deadline and plan accordingly. We will be paying pretty close attention to that.

Electronic Application Submissions Robert Sadlier

- Water Quality Division is requesting electronic copies of applications in addition to the required physical copies for all water quality applications. Electronic copies support more efficient reviews of permit applications. Electronic copies of applications will be accepted via file transfer protocol (FTP). Instructions can be found on TCEQ's public website.

Mandatory Pre-application Meetings for New and Major Amendment Permit Actions Robert Sadlier

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Permitting Program-Specific Updates:

HB 2771 Implementation Activities Mike Lindner

- House Bill 2771 from 2018 legislative session. TCEQ applied way ahead of DL.
- one authorization to discharge instead of having to get two, except in one case.
- Developing two general permits, one under the TPDES program and another discharge authorization under state-only authority.
- First general permit: TPDES and will replace RRC individual authorizations and two existing EPA NPDES general permits: TXG260000 (discharges to territorial seas within 3 miles of the coastline), and TXG330000 (discharges from onshore stripper wells and coastal facilities).
- Second general permit: Not a TPDES (i.e. state-only) and will replace RRC discharge authorizations for the Outer Continental Shelf, between 3 and 10.2 miles of the coastline.
    - Discharges greater than 3 miles from the coastline will need two authorizations, one from TCEQ and a separate NPDES permit from EPA, e.g. under their existing NPDES general permit, GMG290000.
    - Discharges beyond 10.2 miles from the coastline are only required to obtain NPDES authorization from EPA, as the State of Texas does not have authority to regulate discharges beyond 10.2 miles from the coastline.
- TLAPs stayed with the RRC.
- Since the last WQ Advisory stakeholder meeting, significant progress on both GPs, by primarily focusing on the TPDES GP. Entirely new type of ww discharge for WQD to authorize. TCEQ has:

- conducted its own CORMIX dilution modeling to assess impacts of individual toxics; complex--not only flow, but depth to sea floor and pipe diameter
- performed complex modeling to assess dissolved oxygen impacts of produced wastewater,
- assessed thermal impacts of produced wastewater,
- assessed pollutants that are associated with produced wastewater for which TCEQ does not have currently established surface water quality standards (barium and manganese), and
- is assessing the application of the 30 TAC Chapter 319 metals criteria for discharges of produced wastewater.

- The anticipated timeline for these two general permits
  - By the end of this calendar year, finalize drafting of the TPDES GP and submitting to EPA for their 90-day review.
  - During EPA's 90-day review of the TPDES GP, TCEQ will finalize drafting of the state-only Outer Continental Shelf general permit.
  - Following EPA review and approval of the TPDES general permit, ETA spring of 2022, the two general permits will follow a parallel path to state-wide public notice.
  - Following receipt, review, and response to all public comments, ETA summer of 2022, TCEQ anticipates the two general permits being set on the Commission agenda for consideration and approval.

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.

Updates to Homeland Security Contact Information Notifications Paul Brochi

HB 7 Implementation Rebecca Villalba

HB 7, second special session of the 87th legislative session (2021) prohibits TCEQ from issuing a permit for the construction or operation of a facility that is licensed for the storage of high-level radioactive waste by the United States Nuclear Regulatory Commission. The bill became effective on September 9, 2021.

- TCEQ is currently screening applications under the Construction General Permit (CGP) for compliance with the new bill.
- TCEQ will reflect the prohibition in the 2023 CGP renewal.
- TCEQ will update the individual industrial wastewater permit application form and instructions to indicate the prohibition.

General Permit Updates:

Construction General Permit (TXR150000) 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 received another interim rejection letter from EPA on July 15, 2021.
- TCEQ sent a revised permit to EPA for review in response to their comments on August 6, 2021. TCEQ received an approval letter from EPA on August 9, 2021.
- The proposed permit and fact sheet were published in the Texas Register and Houston Chronicle Newspaper on September 24, 2021, for a 30-day comment period. The comment period ended on October 25, 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.

Construction General Permit (CGP) TXR150000 Renewal

- This general permit regulates stormwater discharges from construction activities.
- This general permit expires on March 5, 2023

- The renewal process started last month, and a stakeholder meeting was held on October 21, 2021. Stakeholders have two weeks to provide input on the CGP.
- The renewal permit is expected to be effective on March 5, 2023.

2022 Amendment for Oil and Gas and 2023 Renewal Rebecca Villalba

- 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 Period Rebecca Villalba

- This general permit regulates stormwater discharges from industrial activities.
- The MSGP renewal went to Commissioners Agenda for adoption on July 14, 2021.
    - The commission approved the renewal of the MSGP and was issued with an effective date of August 14, 2021.
- Facilities with an existing active MSGP authorization need to renew their authorization when the renewed MSGP is issued and effective on August 14, 2021.
    - Facilities have up to 90 days after the issuance date of the general permit to renew their authorization (until November 12, 2021).
    - Only electronic applications are accepted – unless a request is made and approved for an eReporting waiver.
- TCEQ mailed out postcards to all entities with an existing active MSGP authorization.
- Will start amendment to MSGP in 2022 to expand the applicability for oil and gas.

Pesticide General Permit Jaspinder "Preet" Singh

- Project Overview: On Oct. 26th, the commission adopted the renewal with amendment of 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.

- Next Steps: Current permittees must submit a renewal application between November 2 and February 1. Do not submit your application prior to Nov 2nd!

Petroleum Bulk Stations and Terminals General Permit Jaspinder "Preet" Singh

- **Project Overview:** The TCEQ is proposing to renew and amend the Petroleum Bulk Stations and Terminals General Permit TXG340000, which authorizes discharges of facility wastewater, contact stormwater, and stormwater associated with industrial activities into or adjacent to water in the state from petroleum bulk stations and terminals. The current permit expires on October 24, 2022.

- **Project Status:** The TCEQ is developing the draft permit.

- **Next Steps:** Submit the draft permit to EPA for review and comment.

Concrete Batch General Permit Macayla Coleman

- Project Overview: On Oct. 26th, the commission adopted the renewal with amendment of 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).

- Next Steps: Current permittees must submit a renewal application between November 7 and February 5. Do not submit your application prior to Nov 7th!

Rule Updates:

Sand Mining in the San Jacinto River Watershed Macayla Coleman

- Rule Petitions/Rulemaking and BMPs Guidance Document
- 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.
- 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 ended on July 27, 2021.
    - A public hearing was held on Thursday, July 22, 2021.
- 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 on July 20, 2021.
- Stakeholders had 30 days to provide comments on the draft BMPs guidance document by Aug. 19, 2021.
- 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.

30 TAC Chapter 305 – TPDES Consolidation Macayla Coleman

- During the 2019 quadrennial rule reviews, TCEQ 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: On Sept. 22, the commission approved publication of and hearing on the proposed rule.

- Next Steps: A virtual public hearing is scheduled for Nov. 9 at 10 am. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Monday, November 8, 2021, to those who register for the hearing. The comment period closes Nov 9.

30 TAC Chapter 321 / 351 – Removal of Obsolete Subchapters Maria Benitez

- 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: On Sept. 22, the commission approved publication of and hearing on the proposed rule.
- Next Steps: A virtual public hearing is scheduled for Nov. 9 at 2 pm. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Monday, November 8, 2021, to those who register for the hearing. The comment period closes Nov 9.

30 TAC Chapter 7 – Aquaculture Memorandum of Understanding with TDA Maria Benitez

- 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 developed the draft rule based on their input. The rule package is currently being reviewed by executive management.
- Next Steps: File Backup on Oct 29. Proposal Agenda on Nov 17.

30 TAC Chapter 217 – Wastewater Treatment Systems Design Criteria Paul Brochi

Please see Presentation Slideshow that is attached on Meeting Summary

Questions & Answers Gregg Easley

Announcements:

The next WQAWG Meeting will be held on Thursday, January 20, 2022, @ 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.*