

TCEQ Water Quality Advisory Work Group (WQAWG) Stakeholder Meeting

April 16, 2024 @ 1:30 p.m.
Building F, Room 2210

MEETING SUMMARY

Moderator:

Gregg Easley

Welcome and Introductions

Permitting Program-Specific Updates:

SB1289 Implementation Activities

Erika Crespo

- The current status of our SB 1289 implementation is that the rulemaking preamble and rule text changes are both in legal and management review. We are also in the process of working on the associated rulemaking fiscal note, and we have also made tentative changes to the 321 P application form and authorization language as well. All of these efforts will be finalized as the rulemaking process continues to move forward.

Oil and Gas Extraction General Permit (TXG310000) and Oil and Gas Outer Continental Shelf General Permit (WQG280000)

Alyssa Loveday

- TCEQ has drafted and issued two general permits for oil and gas extraction facilities' discharges into surface waters of the state.
 - This includes TXG310000 under the Texas Pollutant Discharge Elimination System (TPDES) program.
 - As well as WQG280000 under state-only authority.
- TXG310000 replaces EPA's general permits (TXG260000 and TXG330000), as well as individual Railroad Commission authorizations.
- WQG280000 replaces individual Railroad Commission permit authorizations.
- The TXG310000 and WQG280000 general permits were approved and issued by the Commission on January 10, 2024 and are currently available for coverage. A Notification package, which includes the Notice of Intent and core data form must be mailed to the Industrial Permit Team, MC 148 at the TCEQ Austin Office. There is an \$800 application fee that may be submitted online via our ePay system or mailed to the TCEQ Financial Administrative Division, Revenue Section MC 214. Preliminary coverage for both general permits begins 48 hours after the NOI is postmarked for delivery. Once the NOI is received, we will ensure the facility is eligible for coverage and that the notification package is complete and then issue an acknowledgment letter to authorize coverage under the requested general permit. This will take less than or approximately 30 days. Please keep a copy of the NOI and the acknowledgement certificate onsite.
- Monthly discharge monitoring reports may be submitted via the NETDMR system for TXG310000.
- Since WQG280000 is a state only permit, monthly effluent reports or MERs will need to be submitted via a paper copy to TCEQ's Compliance Monitoring team. MER templates can be found on TCEQ's website by searching "TCEQ MERs." or searching form TCEQ-20708.

ePermits IP apps – coming soon May 2024

Erwin Madrid

- New Online IP is available in STEERS. More information to come at the 2024 TCEQ Trade Fair.
- TCEQ to post application on the agency website, more information to follow.

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 permit with some minor changes.
- 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.
- The public notice for the proposed CAFO GP reissuance was published on January 26th in the Houston Chronicle, Stephenville Empire Tribune, Amarillo Globe-News, and the Lubbock Avalanche Journal, and on February 9th in the *Texas Register*. This notice provided for the normal 30-day formal comment period.
- A public meeting was held on February 20th to take oral comments, and the end of comment period was March 11th.
- Comments were received from the Duval County Groundwater Conservation District, Southeast Texas Clean Air & Water, Inc, Texas Association of Dairywomen, the Texas Cattle Feeders Association, the Texas Farm Bureau, the Texas Pork Producers Association, the Texas Poultry Federation and Affiliates, and Enviro-Ag Engineering Inc.
- Staff is currently developing the response to comments and finalizing the draft permit and fact sheet.
- The only proposed change to the GP in response to the public comments is that the renewal period will not be changed to 90 days. It would remain 180 days as it is in the current GP.
- 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

Rebecca Villalba

- 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 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-mpdes-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 on **August 14, 2024**, 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 (TXR050000) 2025 Amendment

Hannah Cobos

- This general permit regulates stormwater discharges from industrial activities and expires on August 14, 2026.
- 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, to prohibit quarries located within water quality protection areas from obtaining stormwater coverage under this general permit; and
 - Implement HB 2771 from the 86th Regular Legislative Session, effective January 15, 2021, to expand the applicability for non-exempt oil and gas activities. Currently, the general 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. This 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.
- 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 MSGP 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. Again, 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.
- We are currently in the concept stage of the amendment process. The draft general permit documents have been prepared and are in review with TCEQ management for approval to send to EPA. We anticipate sending the draft general permit documents to EPA for their 90-day review and approval later this month.

Exempt Oil and Gas Activities

- 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>

Quarries in Certain Water Quality Protection Areas General Permit (TXG500000) 2025 Renewal

Rebecca Villalba

- In early 2023, TCEQ started the renewal process for the general permit, TXG500000, currently 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 expired on March 29, 2024.
 - The renewal process has been delayed due to the implementation of HB1688, 88th Regular Legislative Session, which amended TWC Chapter 26, Subchapter M (Water Quality Protection Areas) by expanding the pilot program, originally established for the John Graves Scenic Riverway (Brazos River Basin) to include the new “Coke Stevenson Scenic Riverway” (Colorado River Basin). The Coke Stevenson Scenic Riverway is defined in the bill as the South Llano River in Kimble County, located upstream of the river’s confluence with the North Llano River at the City of Junction.
 - The changes to this general permit include:
 - Renaming the general permit to the “Quarries in Certain Water Quality Protection Areas General Permit”.

- Adding a definition for “Coke Stevenson Scenic Riverway,” and modify the existing definition of “Water Quality Protection Areas” to encompass the new water quality protection areas of the Coke Stevenson Scenic Riverway.
 - Modifying permit applicability language to encompass quarries within the new water quality protection areas of the “Coke Stevenson Scenic Riverway” and expand the permitting and financial assurance requirements for those quarries.
 - Modifying permit expiration language to explain since the Pilot Program is extended two years and now expires on September 1, 2027.
- Since the rulemaking was not 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 provided notification to permittees of the administrative continuance.
- Please note that while the current general permit cycle expired on March 29 of this year, the general permit and the six existing authorizations will be administratively continued until the rulemaking to implement HB1688 and the general permit renewal are completed.
- After management briefings and approval, TCEQ sent the draft general permit to EPA on March 22, 2024, and are currently waiting on EPA’s review to be completed.

Rule Updates:

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

Erika Crespo

- 30 TAC Chapter 210 authorizes the producers, providers, and users of reclaimed water.
 - It establishes the general requirements, the quality criteria, and the design and operational requirements for beneficial reuse activities.
 - It also promotes sustainability and protects public health.
- 30 TAC Chapter 321 P authorizes the construction and operation of reclaimed water production facilities.
 - It establishes the general requirements and design criteria.
 - It also authorizes the production of treated domestic wastewater that can be beneficially reused in substitution of potable or raw water.
- Overview of proposed rule changes to 30 TAC Chapter 210
 - These are tentative and subject to change during the rulemaking process.
 - We are revising the definition of “permit or permitted”.
 - We are also adding another regulation citation associated with reclaimed water activity types.
- Overview of proposed rule changes to 30 TAC Chapter 321 Subchapter P
 - These are tentative and subject to change during the rulemaking process
 - We are adding language to state a TPDES or TLAP permit is not required, so long as:
 - The owner of the reclaimed water production facility is also the owner of an associated domestic wastewater treatment facility that is permitted by TCEQ
 - OR
 - The owner of the reclaimed water production facility has documents permission or consent from the owner or operator of an associated domestic wastewater

treatment facility and from the owner of the collection system that the reclaimed water production facility will be connect to, if this is applicable.

- Language is being added to state that the authorization for an reclaimed water production facility will be automatically cancelled if the TPDES-discharge or TLAP-disposal permit for the associated domestic wastewater treatment facility expires or is suspended, cancelled, or revoked.
 - Definitions for an “associated domestic wastewater treatment facility”, a “collection system”, and a “permit” are being added to the rule text.
 - Language is being added to state that a 210 beneficial reuse authorization application, a 321 P reclaimed waster production facility application, and a complete set of engineering design plans and specifications must be submitted concurrently.
 - Rule text is being added to state that authorizations for reclaimed water production facilities will be terminated if the permission or consent from the associated domestic wastewater treatment facility or connected collection system is withdrawn.
 - Language is being added to state that reclaimed water production facility owners or operators must provide TCEQ with written notice, within five business days, that the permission or consent was terminated and the reclaimed water production facility operations have ceased.
- Process for issuing 321 P authorizations prior to the adoptions of rules
 - Since SB 1289 was enacted, we have issued one authorization, and we currently have one application under technical review.
 - A reopener clause is being included in our issued 321 P authorizations, in case we need to make changes once the final rules are adopted.
 - The existing statement about an authorization being automatically terminated if the associated TPDES or TLAP permit goes away is being revised.

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

Brian Sierant

- This rulemaking is required to implement House Bill 692, from the previous Regular Legislative Session and is a result of the need for other means to dispose of dairy waste by a dairy operation and required that the rules be adopted no later than March 1, 2024.
- This bill 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 in Summer 2024.

30 TAC Chapter 311, Subchapter H (Quarries in Certain Water Quality Protection Areas)

Rebecca Villalba

- TCEQ is in the final stage of 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*.
- The proposed rule was published in the January 26, 2024 issue of the *Texas Register* to start the 30-day public comment period.
- A hybrid Public Hearing on the proposed rule was held on February 26, 2024, in Austin, Texas, and the public comment period closed on the same date. No public comments were received.
- Currently we are conducting management briefings for permission to present the proposed rule to the Commissioners for adoption in June 2024.

Questions & Answers

Gregg Easley

Announcements:

- The next WQAWG Meeting will be held on July 16, 2024 @ 1:30 p.m.

Thank you.