

TCEQ Water Quality Advisory Work Group (WQAWG)

Stakeholder Meeting

October 24, 2023 @ 1:30 p.m.
Building E, Room 201S

Final Meeting Summary

Moderator:

Welcome and Introductions

Gregg Easley

Permitting Program-Specific Updates:

Future WQAWG Meeting Scheduling

Erika Crespo

- We received feedback from our stakeholders that it would be beneficial if our WQAWG meeting were scheduled to better coincide with the Drinking Water Advisory Work Group and Water Utility Operator Licensing Advisory Committee meetings, and we agree. We have been collaborating and coordinating behind the scenes with both the Water Supply Division and the Occupational Licensing & Registration Division so that we all can get on the same schedule. We are happy to share that starting in January 2024, we will start having our WQAWG meetings on the same day as the Drinking Water Advisory Work Group meetings. The Drinking Water meetings will be in the mornings, and our WQAWG meetings will continue to be in the afternoons. The Water Utility Operator meetings will be held on the following day. We will keep this schedule through the end of Fiscal Year 2024, and we hope that this new meeting schedule makes attending all of our important stakeholder meetings easier. Please continue to share your thoughts and feedback with us. We value your input and perspective.

SB1289 Implementation Activities

Erika Crespo

- Senate Bill 1289 was passed during the 88th regular legislative session, and the statute changes that this bill made to Chapter 26 of the Texas Water Code require TCEQ to initiate rulemaking to amend 30 TAC Chapters 321 and 210. WQD has started this rulemaking process. We will work on a case-by-case basis with applicants seeking an authorization in accordance with the statute changes prior to the completion of our rulemaking process, and a reopener clause will be included in the event that 321P authorization revisions are required once our rulemaking efforts is complete.

Please note that our SB 1289 Implementation Stakeholder Meeting scheduled for November 9th, 2023, has been cancelled. Public comments on the rule revisions to 30 TAC Chapter 321 Subchapter P and Chapter 210 will be accepted after the *Texas Register* publication.

HB 2771 Implementation Activities

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 obtained TPDES authorization from EPA effective January 15, 2021 via a revised Memorandum of Agreement (MOA).

- TCEQ did not obtain authority for the disposal of wastewater from oil and gas activities via land application. This authority remains under the Texas Railroad Commission (RRC).
- The General Permit (GP) for Hydrostatic Discharges (TXG670000) was amended and re-issued to include crude oil and natural gas hydrostatic test discharges. (Effective Oct-21-2020)
 - New crude oil/natural gas pipelines/vessels are automatically authorized under the GP provided it has been read and the terms and conditions are complied with (no requirement to submit an NOI).
 - Existing crude oil/natural gas pipelines/vessels that contained crude oil or raw natural gas products can now file an administrative NOI electronically and get immediate authorization.

Update on the two general permits

TCEQ has drafted/developed 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 will replace individual Railroad Commission permit authorizations.

Net Sanitary Sewer Overflows – update on eReporting

Rebecca Villalba

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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 draft general permit and fact sheet were published on the Water Quality Advisory Workgroup webpage on July 14th for a 2-week informal comment period. Comments received are considered but not responded to through a response to comments document.
- The draft permit was submitted to the EPA for a 90-day review on August 18th.
- We anticipate publishing notice in February of 2024, which will include a formal comment period and taking before the Commission for adoption in June 2024.

Livestock Manure Compost General Permit (WQG200000)

Brian Sierant

- The current permit expires on November 10th and we are proposing to renew.
- This is a state-only GP that did not require EPA review
- The notice was published in the Texas Register on April 7th and in the Houston Chronicle on March 31st. The comment period closed on May 7th and no comments were received.
- The general permit was adopted by the Commission on September 27th and the reissued GP has an effective date of November 10th of this year.

- Following expiration of the current permit, existing will permittees have until February 8, 2024 to obtain coverage under the reissued permit.

Small (Phase II) MS4 General Permit (TXR040000)

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.
 - At the meeting TCEQ presented preliminary proposed changes.
- EPA approved the draft 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-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 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.

Implementation Activities Include

- The TXG310000 GP [**Onshore Stripper Well Facilities, Coastal Facilities, and Territorial Seas Facilities in the Gulf of Mexico (within 3-miles of the Texas Coastline)**]
 - Combines and replaces EPA's GP Nos. TXG260000 and TXG330000, both of which were administratively continued.
 - TCEQ shared the draft TXG31 GP with stakeholders for review/comments, in which TCEQ reviewed all comments received.
 - The draft GP was then submitted to EPA Region 6 for a 90-day review on August 2, 2022.
 - EPA completed its review on November 14, 2022.
 - TCEQ received no-objections and minor suggestions.
 - EPA approved TCEQ for issuance of the GP.
 - State-wide public notice in the Texas Register and state-wide circulation in newspapers occurred in May 2023 with the formal 30-day public comment period ending on June 12, 2023. One public comment was received and is being addressed.
 - Anticipated Commission adoption of the GP is expected in November 2023
 - Development of TXG310000 NOI, Notice of change (NOC), and NOT forms have been completed.

- Moving on to the WQG280000 GP for the Outer Continental Shelf Facilities in the Gulf of Mexico.
 - This TCEQ state-only GP will propose to authorize discharges to surface waters in the Gulf of Mexico and only covers between 3.0 and 10.2 statute miles of the Texas coastline.
 - We would like to emphasize that the WQG28 GP only covers between 3.0 and 10.2 statute miles from the Texas coastline. Beyond 10.2 miles, Texas **does not** have regulatory authority and **authorization is only required by EPA**. In the 3.0-10.2 statute mile jurisdiction, separate authorization is continued to be required from EPA under the GMG290000 GP.
 - WQG280000 has been drafted/developed in coordination with EPA Region 6's renewal of their equivalent general permit, GMG290000.
 - WQG28 was released for stakeholder input – December 2022 via the Water Quality Advisory Work Group.
 - The public notice was in May 2023 and the formal 30-day public comment period ended in June 2023. Two public comments were received and addressed....
 - Go before the Commission for consideration of issuance: November 29th 2023
 - Development of WQG280000 NOI, NOC, and NOT forms have been completed.

Update on..

- Oil and gas Individual authorizations issued or pending
 - Issued: As of today, we have 53 issued authorizations under the general permit for hydrostatic test discharges (TXG670000) as well as eleven issued individual oil and gas TPDES permits and we have twelve pending individual oil and gas TPDES permit applications.

Rule Updates:

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

Erika Crespo

- WQD has started this rulemaking process to amend 30 TAC Chapter 321 Subchapter P and Chapter 210 to authorize the disposal of treated wastewater from a wastewater treatment facility or reclaimed water production facility that treats domestic wastewater for reuse purposes. Based on recent statute changes to Chapter 26 of the Texas Water Code, reclaimed water production facilities are no longer required to obtain a TPDES or TLAP permit for their alternate means of disposal, if the facility (1) disposes of the treated wastewater through a wastewater collection system and (2) has the consent of the operator of the wastewater collection system that will receive the treated wastewater and the wastewater treatment facility that will further treat the treated wastewater. Please attend our upcoming SB 1289 Implementation Stakeholder Meeting on Thursday, November 9th, if you would like to know more about this rulemaking initiative. Feel free to contact Erika Crespo directly if you have any questions or concerns.

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. HB 692 requires that 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.

Anticipated dates:

- The proposal date at Commission Agenda will occur on November 8th with *Texas Register* publication date of November 24th
- The public hearing date will be on December 27th (adjusted for Christmas holiday), which will be end of comment period.
- The estimated date of adoption will be February 21st 2024.

30 TAC Chapter 311, Subchapter H (Regulation of Quarries in the John Graves Scenic Riverway)

Rebecca Villalba

- In early 2023, TCEQ started the renewal process for the John Graves quarries general permit, TXG50000.
 - This 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 currently on hold since it will also need to be revised to encompass necessary changes as a result of HB 1688.
- The general permit and the six existing authorizations will be administratively continued until the rulemaking is completed later in 2024.
- 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 Kimble County, located upstream of the river's confluence 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.
 - TCEQ is scheduled to obtain approval to publish at the Commissioner's Agenda on January 10, 2024.
 - Publication in the *Texas Register* of the proposed rule is scheduled for January 26, 2024. This will start the 30-day public comment period which will close on February 26, 2024.
- Final adoption is tentatively scheduled in June 2024.

Questions & Answers

Gregg Easley

Announcements:

- SB 1289 Implementation Meeting will be held on November 9, 2023 @ 2:00 p.m.
- WQAWG Meeting will now coincide with DWAAG meeting starting in January 2024. The DWAAG meeting will be that morning, and WQAWG will be held that afternoon.
- The next WQAWG Meeting will be held on January 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.