



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

Office of the Regional Administrator

January 15, 2021

The Honorable Greg Abbott
Governor of Texas
P.O. Box 12428
Austin, Texas 78711-2428

Dear Governor Abbott:

It is with great pleasure that today the U.S. Environmental Protection Agency approves the State of Texas' application for the Texas Commission on Environmental Quality (TCEQ) to implement a Major Category Partial Permit Program under Clean Water Act (CWA) Sections 402(b) and 402 (n)(3) of the Clean Water Act, 33 U.S.C. § 1342 (b) and (n)(3) for discharges of produced water, hydrostatic test water, and gas plant effluent in Texas. We commend the State leadership and all of the TCEQ staff for their efforts to develop and put forth this critical portion of the National Pollutant Elimination System (NPDES) permitting program.

Your June 14, 2019 signature of Texas House Bill 2771 transferred jurisdiction for permitting of oil and gas produced water, hydrostatic test water, and gas plant effluent from the Railroad Commission to the TCEQ upon EPA's approval of the TCEQ's request for NPDES authorization to regulate oil and gas discharges in the State, and directed the TCEQ to seek such authorization. Since that time, the EPA has been working closely with the TCEQ staff to develop this portion of the NPDES program. As part of these efforts, stakeholder meetings were held by the TCEQ, several senior level meetings occurred between the TCEQ, the Texas Office of Attorney General, the EPA Region 6 and the EPA Headquarters, and a parallel process was utilized to evaluate the programmatic and authorization documents necessary for a complete application. Following these collaborative efforts and as part of an expedited timeline to meet the State's legislatively required deadline of September 2021 to apply for authorization, the EPA received your letter formally requesting authorization for the TCEQ to implement the NPDES program for oil and gas discharges in Texas on October 12, 2020. The State's application was declared complete on November 12, 2020, followed by a public hearing and a 45-day public comment period. All of these extraordinary efforts have culminated into today's decision.

Please note that the EPA will permanently retain permitting authority and primary enforcement responsibility for facilities discharging in Indian County as defined in 18 U.S.C. § 1151. Additionally, consistent with the requirements of Sections 309 and 402 of the CWA, to ensure the integrity of state programs, the EPA also retains oversight and enforcement authority over state NPDES programs.

Enclosed you will find a copy of the signed Memorandum of Agreement between the TCEQ and the EPA ("NPDES MOA Addendum") dated January 15, 2021, which is the effective date of the authorization, and a signed pre-publication Federal Register Notice of today's approval. A final Federal Register Notice, along with the EPA's responses to comments received on the State's application will be published in the Federal Register in the near future.

My staff and I are committed to work closely with the TCEQ to ensure a smooth transition; and in the future to meet our responsibilities and challenges. Again, let me congratulate you and everyone at the State on their fine efforts. If we can assist you in any way, please feel free to call.

Sincerely,

A handwritten signature in black ink that reads "Ken McQueen". The signature is written in a cursive, slightly slanted style.

Ken McQueen
Regional Administrator

Enclosures

cc: Emily Lindley, Commissioner
TCEQ