

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend §311.61 and §311.62, and propose new §311.67.

### **Background and Summary of the Factual Basis for the Proposed Rules**

On February 6, 2013, the Tarrant Regional Water District (petitioner) filed a petition for rulemaking that proposed amending §§311.61, 311.62, and adding 311.67 to correct the definitions of "Benbrook Lake watershed" and "Benbrook Lake water quality area" and to require an effluent limit of 1.0 milligram per liter (mg/L) for total phosphorus for new or amended domestic wastewater discharges to the Benbrook Lake water quality area and Benbrook Lake watershed based on discharge flow volume and location. In addition to correcting definitions, the purpose of the petitioner's requested rulemaking was to protect water quality in Benbrook Lake by limiting additional nutrient enrichment in the reservoir and the associated problems that enrichment can cause.

The petitioner provided several lines of support to justify the proposed rulemaking. The petitioner took part in a regional wastewater treatment needs study that projected increasing volumes of domestic wastewater through the year 2030 due to expected population growth in the Benbrook Lake watershed. Using a water quality simulation model, the study estimated the effluent quality requirements necessary to protect water quality in the lake. The evaluation predicted that requiring a total phosphorus effluent limit of 1.0 mg/L would prevent lake concentrations of the nutrient-loading response

variable chlorophyll-*a* from increasing significantly beyond the TCEQ-proposed chlorophyll-*a* criterion for Benbrook Lake.

The petitioner also sponsored a study of trends in the water quality data collected from Benbrook Lake. The study found significant increasing trends in concentrations of chlorophyll-*a*, total phosphorus, and total nitrogen in the lake. It is expected that the proposed effluent limit for total phosphorus would lessen the upward trend of lake chlorophyll-*a* concentrations. The petitioner also noted that the TCEQ Texas Water Quality Integrated Report has reported chlorophyll-*a* or excessive algal growth concerns in Benbrook Lake in all biennial report years dating back to 2002. Furthermore, the petitioner used a soil and water analysis model of the watersheds of two of its other system reservoirs to demonstrate that most (over 80%) of the phosphorus generated by point and nonpoint sources in the watersheds is delivered to the reservoirs, indicating the potential effectiveness of phosphorus control for additional wastewater loading to the lake. The model results were also linked to the water quality simulation tool and showed that the reservoirs were most sensitive to cumulative loads as opposed to individual loadings.

The petitioner lastly reviewed TCEQ's procedures for evaluating on a permit-by-permit basis the need for phosphorus effluent limits. The petitioner indicated that the TCEQ procedures do not adequately take into account water quality trends, anticipated future

wastewater loading, and cumulative impacts from other wastewater discharges. In addition, the evaluation of individual discharges using TCEQ procedures in certain cases may not result in the recommendation of total phosphorus effluent limits for the targeted new or increasing discharges of 0.1 million gallons per day (MGD) or greater in the Benbrook Lake water quality area and 0.25 MGD or greater in the Benbrook Lake watershed.

The TCEQ has reviewed the above information provided by the petitioner and agrees that the proposed rulemaking would be an effective approach to further protect water quality in Benbrook Lake.

### **Section by Section Discussion**

#### *§311.61, Definitions*

The commission proposes to amend the reference to "Lake Benbrook" to correctly reflect the reservoir's proper name, Benbrook Lake. To incorporate this change, the terms "Lake Benbrook water quality area" and "Lake Benbrook watershed" are renamed "Benbrook Lake water quality area" and "Benbrook Lake watershed," respectively. This proposed change also creates a change in the alphabetical order and numeric sequencing of paragraphs (2) - (10). The water quality area definition contains two references to "Lake Benbrook" that are changed to "Benbrook Lake." The one reference to "Lake Benbrook" in the watershed definition is changed to "Benbrook Lake," and the

upper watershed boundary is changed from "a point 200 meters downstream from U.S. 337 in Tarrant County" to "Lake Weatherford Dam." U.S. 337 is a nonexistent highway, and if U.S. Highway 377 was the intended reference, the resulting watershed area would be smaller than the water quality area, which is inconsistent with the relationship between the watersheds and water quality areas of the other reservoirs included in Subchapter G. The dam of the reservoir upstream of Benbrook Lake, Lake Weatherford, is the correct upper boundary of the Benbrook Lake watershed.

*§311.62, Scope*

The commission proposes to amend §311.62 to accommodate the addition of §311.67, Nutrient Control, which institutes a total phosphorus limit for certain discharges into the Benbrook Lake water quality area and watershed. The original scope of the subchapter focused only on discharges to reservoir water quality areas, so an exception was added for §311.67. The phrase "and discharges directly into these lakes" is removed from the original scope statement because it is unnecessary. The definition of each of the other reservoir water quality areas includes the reservoir itself. An additional sentence is added to §311.62 to indicate that §311.61 and §311.66, More Stringent Requirements, also apply to discharges to the Benbrook Lake watershed. A clarifying statement is added to the end of §311.62 that limits the scope of §311.67 only to discharges into the Benbrook water quality area and watershed.

*§311.67, Nutrient Control*

The commission proposes new §311.67. Proposed subsection (a) requires a daily average effluent limit for total phosphorus of 1.0 mg/L for domestic wastewater discharges, from treatment systems other than oxidation pond systems, into either the Benbrook Lake watershed or water quality area. Discharges into the Benbrook Lake watershed with a permitted flow less than 0.25 MGD and discharges into the Benbrook Lake water quality area with a permitted flow less than 0.10 MGD are exempt from the effluent limit requirement. Proposed subsection (b) stipulates that for discharge permits with multiple flow phases, the requirements of subsection (a) apply only to qualifying flow phases. Proposed subsection (c) further clarifies that for permits with more than one discharge outfall, the permitted flow for all the outfalls would be combined to determine if the permit meets the flow criteria of subsection (a). Proposed subsection (d) further limits the applicability of subsection (a) to new discharge permits and existing permits that increase the permitted flow of the discharge.

**Fiscal Note: Costs to State and Local Government**

Jeffrey Horvath, Analyst in the Chief Financial Officer's Division, has determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency and no fiscal implications are anticipated for other units of state or local government as a result of administration or enforcement of the proposed rules. However, the proposed rules could result in additional costs which

may be significant, for those for new or amended discharge permits within the Benbrook Lake Water Quality Area with a permitted annual or daily average flow greater than or equal to 0.10 MGD, or for new or amended discharge permits within the Benbrook Lake Watershed, but outside the Benbrook Lake Water Quality Area, with a permitted annual or daily average flow greater than or equal to 0.25 MGD.

The proposed rules would require an effluent limit of 1.0 mg/L for total phosphorus for new or amended domestic wastewater discharges to the Benbrook Lake water quality area and Benbrook Lake watershed based on discharge flow volume and location. The proposed rules are intended to protect water quality in Benbrook Lake by limiting additional nutrient enrichment in the reservoir and the associated problems that enrichment can cause.

The proposed rules will affect newly constructed wastewater treatment plants or existing wastewater treatment plants that are expanded and either: 1) discharge a volume greater than or equal to 0.10 MGD in the Benbrook Lake water quality area (the reservoir and any tributaries within five miles of the lake's conservation pool), or 2) discharge a volume greater than or equal to 0.25 MGD in the Benbrook Lake watershed (tributaries outside of the water quality area and downstream of Lake Weatherford Dam). Currently, the area to which the proposed rules would apply contains seven domestic wastewater dischargers. Of those seven dischargers, two are located within the

Benbrook Lake Water Quality Area (within five miles of the reservoir normal pool elevation), and the remaining five dischargers are within the Benbrook Lake Watershed (outside the Water Quality Area and below the upstream Lake Weatherford dam). One of these dischargers already has a 1.0 mg/L total phosphorus permit effluent limitation and therefore is not expected to be affected by the proposed rules. The remaining six dischargers will be affected if they have to expand or build new facilities based on growth projections in the area. If either of these scenarios occur, they can expect additional costs to meet the total phosphorus limits. A 2007 regional wastewater planning study commissioned by the Tarrant Regional Water District (petitioner for the rule change) and several area cities, entitled "Eastern Parker County Regional Wastewater Facilities Plan", projects an increase in the amount of wastewater discharges in this area of approximately 2.3 MGD by the year 2020 and 5.0 MGD by 2030.

Of the six potentially affected dischargers, two are owned by cities (Willow Park and Weatherford). If these two dischargers expand or build new wastewater treatment facilities, they are likely to experience additional costs. Based upon a technical support document prepared for the Ohio Environmental Protection Agency by Tetra Tech in May, 2013, entitled "A Cost Estimate of Phosphorus Removal At Wastewater Treatment Plants", it is estimated that for levels stipulated in the proposed rule, capital costs could run between \$0.59 to \$2.95 per gallon of additional treatment capacity and between

\$240 and \$648 per million gallons treated for operation and maintenance (O&M) costs. These average costs would depend upon the degree of treatment and technology chosen. The cost estimates in the study are based on the additional costs for a new facility to treat for phosphorus, which seems to be the most likely scenario, according to the study.

For the purposes of this fiscal note, it is roughly estimated that affected dischargers in the Benbrook Lake water quality and watershed areas could expect to pay an estimated \$2.60 per gallon of treatment capacity in capital costs and \$391 per million gallons treated in O&M costs to achieve the level of treatment contemplated in the rule proposal. Assuming there are an additional 2.3 MGD that need to be treated, then additional one-time capital costs would be estimated at approximately \$6 million ( $2.3 \times \$2.60$ ) with annual O&M costs of \$328,245 ( $\$391/\text{MG} \times 2.3/\text{MGD} \times 365$ ). It could also be assumed that additional costs to the cities would be made up for by an increase in rates assessed to wastewater utility customers.

### **Public Benefits and Costs**

Mr. Horvath has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be enhanced protection of the public health and safety through the reduction of phosphorus in Benbrook Lake thereby preserving the lake for recreation, the support of aquatic life, and public drinking water.

The proposed rules are not anticipated to result in fiscal implications for businesses or individuals unless affected wastewater treatment facilities increase their discharge flow volume to meet the proposed limits by expanding their current treatment facilities or building new ones. Under these circumstances, the owner and operators of these facilities would be subject to the proposed phosphorus limits and would incur higher treatment costs. Those costs could translate into higher sewer utility rates for customers. Of the six potentially affected dischargers, four are privately owned. If these dischargers build new wastewater treatment facilities to levels stipulated in the proposed rule, they are likely to experience additional costs estimated to be between \$0.59 to \$2.95 per gallon of additional treatment capacity in one-time capital costs and between \$240 and \$648 per million gallons treated for O&M costs. These average costs would depend upon the degree of treatment and technology chosen. For the purposes of this fiscal note, it is roughly estimated that affected dischargers in the Benbrook Lake water quality and watershed areas could expect to pay an estimated \$2.60 per gallon of treatment capacity in capital costs and \$391 per million gallons treated in O&M costs to achieve the level of treatment contemplated in the rule proposal. Assuming there are an additional 2.3 MGD that need to be treated, then additional one-time capital costs would be estimated at approximately \$6 million ( $2.3 \times \$2.60$ ) with annual O&M costs of \$328,245 ( $\$391/\text{MG} \times 2.3/\text{MGD} \times 365$ ). It could also be assumed that additional costs to the businesses would be made up for by an increase in rates assessed to wastewater

utility customers.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect. The proposed rules will affect wastewater utilities that are small or micro-businesses that treat wastewater and discharge in the Benbrook Lake water quality area and Benbrook Lake watershed. If any of these dischargers expand their current treatment facilities or build new ones and increase their discharge flow volume to amounts that require the dischargers to meet the proposed limits stipulated in the proposed rule, then these owners and operators could incur higher phosphorus treatment costs, which could translate into higher sewer rates for customers. All of the four privately owned dischargers could be small or micro-businesses. Due to a projected increase in population, a 2007 regional wastewater planning study projected an increase in wastewater discharges of approximately 2.3 MGD by 2020 and 5.0 MGD by 2030. Assuming there are an additional 2.3 MGD that need to be treated, then additional one-time capital costs would be estimated at approximately \$6 million ( $2.3 \times \$2.60$ ) with annual O&M costs of \$328,245 ( $(\$391/\text{MG} \times 2.3/\text{MGD}) \times 365$ ). Any additional costs to these facilities to expand their operations would be made up for by an increase in rates assessed to wastewater utility customers.

### **Small Business Regulatory Flexibility Analysis**

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way and are necessary to protect the public health, safety, and environmental and economic welfare of the state.

### **Local Employment Impact Statement**

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

### **Draft Regulatory Impact Analysis Determination**

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the

state or a sector of the state. The intent of the rulemaking is to establish a phosphorus limit for discharge permits when the permittee is discharging into the Benbrook Lake watershed or Benbrook Lake water quality area, depending on the permit's flow volume limit. The specific intent of the proposed rulemaking is to amend the commission's rules to establish a phosphorus limit that does protect the environment and reduces risks to human health from environmental exposure but that will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Therefore, the proposed rulemaking does not meet the definition of a "major environmental rule."

Even if the proposed rulemaking was a major environmental rule, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: 1) does not exceed a standard set

by federal law; 2) does not exceed an express requirement of state law; 3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and 4) is not proposed solely under the general powers of the agency, but rather specifically under Texas Water Code (TWC), §26.0135, which authorizes the commission to monitor and assess the water quality of each watershed in the state; TWC, §26.027, which authorizes the commission to issue permits; and TWC, §26.121, which authorizes the commission to prohibit unauthorized discharges. Therefore, this proposed rulemaking does not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

The commission invites public comment regarding this draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Takings Impact Assessment**

The commission evaluated this proposed rulemaking and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rulemaking is to establish a phosphorus limit that would apply to wastewater discharges into the Benbrook Lake watershed and water quality area. The

proposed rulemaking would substantially advance this stated purpose by adding a daily average phosphorus limit of 1 mg/L that would only apply to discharges into the Benbrook Lake watershed and water quality area to Chapter 311, Subchapter G of the commission's rules.

The commission's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking because this is an action that is reasonably taken to fulfill an obligation mandated by federal law, which is exempt under Texas Government Code, §2007.003(b)(4). The commission has been delegated as the regulatory agency that administers the state National Pollutant Discharge Elimination System program under the federal Clean Water Act, §402 and, therefore, is responsible for establishing effluent limitations to protect water quality in a specific portion of a navigable water to protect public health, public water supplies, agricultural and industrial uses, wildlife, and recreational activities under the federal Clean Water Act, §302.

Nevertheless, the commission further evaluated this proposed rulemaking and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of this proposed rulemaking would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations do not affect a landowner's rights in

private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. In other words, this rulemaking requires compliance with a phosphorus effluent limitation related to discharges into the Benbrook Lake watershed and water quality area without burdening nor restricting or limiting the owner's right to property and reducing its value by 25% or more. Therefore, the proposed rulemaking does not constitute a taking under Texas Government Code, Chapter 2007.

### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

### **Announcement of Hearing**

The commission will hold a public hearing on this proposal in Austin on July 24, 2014, at 10:00 a.m. in Building E, Room 201S at the commission's central office, located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called

upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services, at (512) 239-1802. Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Bruce McAnally, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at <http://www5.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2014-006-311-OW. The comment period closes August 4, 2014. Copies of the proposed rulemaking can be obtained from the commission's Web site at [http://www.tceq.texas.gov/nav/rules/propose\\_adopt.html](http://www.tceq.texas.gov/nav/rules/propose_adopt.html). For further information, please contact Gregg Easley, Water Quality Division, at (512) 239-4539.

**SUBCHAPTER G: LAKES WORTH, EAGLE MOUNTAIN, BRIDGEPORT,  
CEDAR CREEK, ARLINGTON, BENBROOK AND RICHLAND-CHAMBERS**  
**§§311.61, 311.62, 311.67**

**Statutory Authority**

This rulemaking is proposed under Texas Water Code (TWC), §5.102, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, which establishes the commission's general authority to adopt rules; TWC, §5.105, which establishes the commission's authority to set policy by rule; TWC, §5.120, which requires the commission to administer the law so as to promote the conservation and protection of the quality of the state's environment and natural resources; TWC, §26.0135, which authorizes the commission to monitor and assess the water quality of each watershed and river basin in the state; TWC, §26.023, which authorizes the commission to set water quality standards for water in the state by rule; TWC, §26.027, which authorizes the commission to issue permits; and TWC, §26.121, which provides the commission's authority to prohibit unauthorized discharges.

The proposed rulemaking implements TWC, §§26.0135, 26.023, 26.027, and 26.121.

**§311.61. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) BOD<sub>5</sub>--Biochemical oxygen demand (five-day).

(2) Benbrook Lake water quality area--Those portions of the Benbrook Lake watershed within five stream miles upstream of the pool level of Benbrook Lake (694.0 feet, mean sea level).

(3) Benbrook Lake watershed--Benbrook Lake and its tributaries, located between Benbrook Dam and Lake Weatherford Dam.

(4) [(2)] Cedar Creek reservoir water quality area--Those portions of the Cedar Creek Reservoir watershed within five stream miles upstream of the pool level of Cedar Creek Reservoir (322.0 feet, mean sea level).

(5) [(3)] Cedar Creek Reservoir watershed--Cedar Creek Reservoir and its tributaries located between Joe B. Hoggsett Dam and a point along Cedar Creek up to the normal pool elevation.

(6) [(4)] DO--Dissolved oxygen.

(7) [(5)] Eagle Mountain Lake water quality area--Those portions of the Eagle Mountain Lake watershed within five stream miles upstream of the pool level of Eagle Mountain Lake (649.1 feet, mean sea level).

(8) [(6)] Eagle Mountain Lake watershed--Eagle Mountain Lake and its tributaries located between Eagle Mountain Dam and a point 0.6 kilometers downstream from the confluence of Oates Branch.

(9) [(7)] Lake Arlington water quality area--Those portions of the Lake Arlington watershed within five stream miles upstream of the pool level of Lake Arlington (550.0 feet, mean sea level).

(10) [(8)] Lake Arlington watershed--Lake Arlington and its tributaries located between Arlington Dam up to the normal pool elevation along Village Creek.

[(9) Lake Benbrook water quality area--Those portions of the Lake Benbrook watershed within five stream miles upstream of the pool level of Lake Benbrook (694.0 feet, mean sea level).]

[(10) Lake Benbrook watershed--Lake Benbrook and its tributaries located between Benbrook Dam and a point 200 meters downstream from U.S. 337 in Tarrant County.]

(11) Lake Bridgeport water quality area--Those portions of the Lake Bridgeport watershed within five stream miles upstream of the pool level of Lake Bridgeport (836.0 feet, mean sea level).

(12) Lake Bridgeport watershed--Lake Bridgeport and its tributaries located between Bridgeport Dam to a point immediately upstream from the confluence of Bear Hollow.

(13) Lake Worth water quality area--Those portions of the Lake Worth watershed within five stream miles upstream of the pool level of Lake Worth (594.3 feet, mean sea level).

(14) Lake Worth watershed--Lake Worth and its tributaries located between Lake Worth Dam and a point 4.0 kilometers downstream from Eagle Mountain Dam.

(15) Mg/liter--Milligram per liter.

(16) Oxidation pond system--Facility in which oxidation ponds are the primary process used for secondary treatment and in which the ponds have been designed and constructed in accordance with applicable design criteria.

(17) Richland-Chambers reservoir water quality area--Those portions of the Richland-Chambers Reservoir watershed within five stream miles upstream of the pool level of Richland-Chambers Reservoir (315.0 feet, mean sea level).

(18) Richland-Chambers watershed--Richland-Chambers Reservoir and its tributaries located between Richland Creek Dam and a point along Richland Creek up to the normal pool level.

(19) TSS--Total suspended solids.

**§311.62. Scope.**

Except for §311.67 of this title (relating to Nutrient Control), this subchapter applies [These sections apply] to discharges into the water quality areas of Lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook, and Richland-Chambers [and discharges directly into these lakes]. Section 311.61 and §311.66 of this

title (relating to Definitions; and More Stringent Requirements, respectively) also apply to the Benbrook Lake watershed. Section 311.67 of this title only applies to discharges to the Benbrook Lake watershed and Benbrook Lake water quality area.

**§311.67. Nutrient Control.**

(a) Domestic wastewater discharges from wastewater treatment systems, other than oxidation pond systems, must meet a daily effluent limit for total phosphorus of 1.0 milligram per liter, based on a 30-day average, if the wastewater treatment system:

(1) has a permitted annual or daily average flow greater than or equal to 0.10 million gallons per day and a discharge point located in the Benbrook Lake water quality area; or

(2) has a permitted annual or daily average flow greater than or equal to 0.25 million gallons per day and a discharge point located in the Benbrook Lake watershed, but outside the Benbrook Lake water quality area.

(b) For discharge permits with more than one flow phase, the effluent limit requirements in subsection (a) of this section apply only to those flow phases that meet the flow requirements in subsection (a) of this section.

(c) For wastewater treatment systems with more than one outfall, the permitted flow limits for all outfalls will be combined to determine if the system meets one of the flow requirements in subsection (a) of this section.

(d) This section only applies to wastewater treatment systems that apply for a new discharge permit or a discharge permit amendment to increase permitted flow after January 1, 2015.