

**Water Quality Advisory Work Group
Draft Meeting Summary
March 1, 2005**

Welcome and Introductions - Chris Linendoll, Wastewater Permitting Section Manager

- Sherry Smith introduced as Program Specialist reporting directly to Chris Linendoll, working on Special Projects
- David Waterstreet introduced as new Storm Water & Pretreatment Team Leader

Legislative Update - Darrell Williams

- Pending Legislation:
 - ▶ **HB 86 & SB 579 - Relating to compliance histories for and incentives to reward compliance performance by entities regulated by the TCEQ** - would revise previous legislation so that (1) specific classifications of compliance (high, average, poor), and (2) notices of violation would no longer be required in evaluating compliance of regulated facilities. The following sections are deleted: 5.753(d)[which specifies that notices of violations are a component of compliance history], 5.754(a)&(b)[which require TCEQ to establish a rule that sets standards for classifying a person's compliance history], and 5.757 [which directs TCEQ to establish a single point of contact to coordinate innovative programs]. The Commission would revise the rules at the agency related to 30 TAC Chapter 60. The WQD Division will also need to revise the operational procedures and policy for evaluating compliance history.
 - ▶ **HB93 - Relating to a manifest system to record the transportation of certain liquid wastes** - The bill proposes a manifest system that would require a person who generates, collects, conveys, transports, processes, stores, or disposes of sewage sludge, water treatment plant sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste to keep records and use a uniform manifest to ensure that waste is transported to an appropriate processing, storage, or disposal facility or site permitted or authorized for that purpose. The Commission would have to amend existing Chapter 312 rules to address the manifests and would have to develop a uniform manifest. There are approximately 2,425 active wastewater treatment facilities that would need to submit manifests to TCEQ for processing.
 - ▶ **HB 680 & SB 457 - Relating to procedures for providing notice of intent to obtain certain permits issued by the TCEQ** - proposes to modify current noticing procedures for individual permits issued by TCEQ by: (1) requiring the applicant to send the notice of receipt and intent (NORI) to obtain a permit by certified mail to any person who owns land adjacent to the location or proposed location of the facility; (2) allowing the applicant to submit an affidavit if the applicant is unable to obtain the name or address of an adjacent property owner in lieu of mailing the NORI; (3) requiring mailing of the NORI and/or affidavit to occur prior to publishing of the NORI; and (4) prohibiting publishing the NORI

- ▶ and notice of application and preliminary decision (NAPD) in a newspaper on a legal state or national holiday or on weekend if the weekend is preceded or followed by a legal state or national holiday. Notice rules of the agency will need to be modified to implement this legislation.
- ▶ **SB 588 - Relating to notice of intent to obtain a permit from the TCEQ in counties of 3.2 million or more** - This bill proposes to modify existing requirements for publication of the notice of receipt and intent (NORI) to obtain a permit for facilities located in counties with a population of 3.2 million or more. The bill will require publication of the NORI in a newspaper with at least weekly circulation. The Commission would need to initiate rulemaking to modify 30 TAC Chapter 39.
- ▶ **HB 1493 - Relating to the publication of notice of intent to obtain a permit from the TCEQ for a facility located or proposed to be located in certain populous counties.** The bill proposes to modify existing requirements for publication of the notice of receipt and intent (NORI) to obtain a permit for facilities located in counties with a population of 3.2 million or more. The bill will require publication of the NORI in a newspaper of largest circulation in the county that also offers home delivery on a daily or weekly frequency, or if the facility is located in a municipality notice shall be published in a newspaper of general circulation that also offers home delivery on a daily or weekly frequency. The Commission would need to initiate rulemaking to modify 30 TAC Chapter 39.
- ▶ **HB 785 - Relating to authorizing a temporary wind up permit for a concentrated animal feeding operation for which the permit has been revoked.** The bill proposes to authorize temporary wind up permit for a term not to exceed 6 months for a concentrated animal feeding operation which has been revoked. If the revocation of the permit is appealed the term of the permit would be extended. The Commission would have to amend existing rules under 305 or Subchapter B or create new rules to address temporary permits.
- ▶ **HB 786 - Relating to the authority of county governments to prohibit solid waste disposal.** This bill proposes to modify Sections of 364.012 (b) and (f) of the Health and Safety Code to delete the requirement that county ordinances must specifically designate the area of the county in which municipal or industrial solid waste disposal is not prohibited. In addition, the bill states that the Commission may grant an application for a permit to dispose of municipal or industrial solid waste in an area in which the disposal of the solid waste is prohibited by a county ordinance if the Commission determines that the area is appropriate for that activity and the ordinance does not designate a specific area where the activity is not prohibited. The Commission may also issue a permit if the county designates areas that are suitable for solid waste disposal and the Commission determines that those designated areas are not appropriate. 30 TAC Chapter 312 would need to be amended and staff would have to develop internal policies and procedures

for the review of monofill permits and water treatment plant authorizations to determine if an ordinance exists for the county in which the proposed facility will be located.

- ▶ **SB 142 and HB 477 - Relating to the authority of a county to regulate land development after a local option election.** Subchapter F is added to Chapter 232 of the Local Government Code. Subchapter F would provide the following authority to counties to regulate land development in unincorporated (subdivision) areas:
 - (1) requiring a central water or wastewater system;
 - (2) requiring a fire suppression system;
 - (3) requiring improvements to roadways;
 - (4) requiring open space or imposing a limit on the amount of impervious cover;
 - (5) imposing impact fees under Chapter 395 of the Local Government Code;
 - (6) adopting any other regulation necessary to regulate or manage land development.

Counties could assume this authority by majority vote in a county election. The Water Quality Division would need to coordinate with counties to avoid contradictory state/county requirements for (1)domestic centralized water

systems,

and (2) multi-sector storm water permits.

Update on 316(B) Cooling Water Intake - Lynda Clayton (Handout #1)

- CWA 316 meant to reduce impingement/entrainment mortality of organisms from cooling intake structures
- Texas affected by Phase II
- Affects power industries intaking 50mgd or greater
- Litigation filed against Phase II by several River Authorities in the Northeastern states
- Suit will decide if restoration should remain part of the rule
- Phase II has January 2008 deadline for submission of required compliance information
- Most facilities are at the information collection stage
- Part of the PIC process, the industries will choose compliance option
- 316(b) internal workgroup comprised of staff from Water Quality Assessment and the Industrial Wastewater Permitting team has been meeting with regulated entities
- A video conference with Region 6 EPA is scheduled to discuss 316(b) implementation
- Stage III proposed last November
- Comment period has ended - discussions recently among States has been mostly concerned with liquid and natural gas facilities which TCEQ does not regulate (regulated by the TX Railroad Commission so 316 issues addressed by EPA R6)
- EPA published draft guidance document for WET testing - comments end March 31

Engineering Board Update - Arthur Talley (Handout #2)

- Engineering Practices Act - defines practice of Engineering and lists different activities that constitute engineering in Water Quality Planning Process
- Requires that any public work undertaken by the state or political subdivisions use a PE

- in the preparation of plans and estimates during construction.
- Advisory opinion is a statement of policy issued by the Texas Board of Professional Engineers
- Provides guidance to the public and regulated community regarding the board's interpretation and application of the Texas Engineering Practices Act
- Council of Engineering Companies requested Board to determine what portion of water quality protection planning services constitutes the practice of engineering
- Water Quality Protection Plan for the Edwards Aquifer
 - ▶ Define planning region
 - ▶ Develop stakeholder process
 - ▶ Develop communication strategy
 - ▶ Assess existing water quality studies
 - ▶ Summarize water quality issues
 - ▶ Recommend additional studies
 - ▶ Identify entities that implement protection measures
 - ▶ Identify water quality protection strategies
 - ▶ Develop water quality protection plan
 - ▶ Develop process to disseminate plan
- Stakeholder Process - TCEQ comments
 - ▶ Water Quality planning projects are largely scientific in nature
 - ▶ Define the practice of engineering as activities which are directly related to design of an engineering work
 - ▶ Physical, chemical, and biological monitoring- clearly not engineering tasks
- Other Stakeholder comments
 - ▶ The services of a PE are required when the project involves the analysis and assessment of studies and models, recommendations regarding best management practices, and other performance based evaluations.
 - ▶ Definition of engineering includes many of the following tasks; water quality assessment, monitoring, analysis, modeling, mapping, planning and management.
 - ▶ Technical tasks associated with analyzing studies and models to determine effective strategies and ensuring that they work are clearly engineering.

Water Quality Planning - Nancy Vignali

- Water Quality Management Plan - product of Wastewater treatment facility process
- Provides long range plan
- Clean Water Act mandates that the WQMP be updated to reflect changes
- TDWR prepared original WQMP in 1970's
- WQMP helps to plan and control water problems in Texas
- TCEQ has review procedures for proposed flow or effluent limits
- After comments the WQMPs are certified upon approval of EPA
- Plan must be updated before permit can be issued
- More information on WQMPs can be found at [tceq.state.tx.us/permitting/WQD/Water Quality Management Plan](http://tceq.state.tx.us/permitting/WQD/Water%20Quality%20Management%20Plan)

Storm Water and General Permit Update - David Waterstreet

Status of permits

- MSGP - looking at benchmark data and sampling protocol
- Construction - concrete washouts may be incorporated into TXG11
- Harris County - septic systems looking at administrative issues with Harris County
- TXG83 Petroleum substances - expires 10/07
- Concrete Batch Plants - may issue in Fall 2005
- TXG34 PBST - in briefings, will probably be issued in fall
- MS4 - in briefings now, will send for EPA review, then public comment, goal is to adopt by October
- Aquatic Animal Production - possibly issued in June or summer
- Hydrostatic test water - probably April

New General Permits

- Rock Quarries on indefinite hold - meeting with Brazos Conservation Coalition - reviewed draft legislation, met with legislator from affected county-Agency decided to hold up
- Small Domestic Permit - working on flow threshold for STP, TSU developed technical document for suitable levels, higher levels being considered
- Potential legislation for certain areas of state

Sludge/CAFO Update - Beth Fraser

- 312 Rule revisions scheduled to go to agenda March 23rd and could possibly be published in April, September 2005 anticipated adoption date
- CAFO /General Permit NOI Status
 - ▶ Over 500 NOIs received
 - ▶ 393 Acknowledged
 - ▶ 29 new received
 - ▶ 2 Significant expansions
 - ▶ 13 filed with CCO

Next Meeting - Date and Topics

- Next Meeting, June 7th, 1:15, TCEQ, Building F, Room 2210
- Suggested Topics: Legislative Issues, court cases, EPA's policies and rules, update on WET testing, SWGP update, 316(b), DMRs, EDMRs, and interface with EPA

Water Quality Advisory Work Group
March 1, 2005
Attendee List

Danny Batts	LCRA
Lial Tischler	Tischler/Kocurek
Kevin Phillips	Eastman Chemical Company
Allen White	USFWS
Chris Linendoll	TCEQ
Jim Duke	Self
David Waterstreet	TCEQ
Wes Birdwell	Halff Associates
Janelle Taylor	Texas Parks and Wildlife Department
Lynda Clayton	TCEQ - WQD
Tammy Brooks	GLO
Emily Rogers	Bickerstaff
Mahendra Mohite	Weston Solutions
Darrell Williams	TCEQ - WWP
Susan Young	SWWC
Mike Tomme	LCRA
Mary Gugliuzza	Fort Worth Water
Michelle Smith	Lloyd Gosselink
Darren Strozewski	HDR Engineering
Susan Karlins	City of Houston
Gayle Haecker	Brazos River Authority
Isabella Ip	Lyondell Chemicals
Sara Burgin	Baker Botts
Sherry Smith	TCEQ
Becky Thomas	Testengeer, Inc.
Richard Chapin	TCC
David T. Villarreal	TDA
Carol Batterton	Water Environment Association of Texas
Nancy Vignali	TCEQ - WQA
Cindy Contreras	TPWD
Mary Etter	LCRA
Ruiku Hammond	TML
Jim Matthews	M & F
Mark Lowry	TC & B
Richard S. Tally	City of Ft Worth - Water
Mark Fisher	TCEQ
Cindy Smiley	Kelly, Hart, and Hallman
Mel Vargas	Parsons
Stan Oestrick	IWSCOT
Beth Fraser	TCEQ