Environmental Trade Fair & Conference:

*Summary of the Industrial and Hazardous Waste Educational Track Attendee Questions and Answers*

May 17, 2017

*Industrial & Hazardous Waste (I&HW) Permits Section Overview/Emerging Issues:*

*Presenter: Bob Patton*

*Time: 8:30-9:30 a.m.*

What is the turn-around time on a Class 3 modification?

A: The official processing time is similar to that of a new or renewal permit, 450 days. The purpose of the pre-application meeting is an attempt to shorten the processing time.

When does I&HW expect to start implementing the risk assessment procedures?

A: We will have discussion groups to open up communication with the regulated community for comments. We will send out a GovDelivery announcement prior to implementation, and expect to discuss it openly within six months.

Will the risk assessment procedures affect applications already in house?

A: Possibly to enhance or quicken the process. We hope to resolve more notices of deficiency (NOD) via email or phone, and to reduce the number of NODs.

Can lower risk deficiencies be resolved without a signature page?

A: This is what we would like to move toward, however we still need to have some discussions with our legal team.

When should applicants request a pre-application meeting?

A: Applicants will receive a call-in letter one year prior to permit expiration telling them the date their permit will expire and requesting a renewal permit application six months prior to expiration (approximately six months from the date of the letter). The applicant can request a pre-application meeting at any time, but we recommend at least pursuing one when you receive your call-in letter and in the early stages of preparing your application documents.

Can I&HW identify categories of high and low risk?

A: Higher risk sections of the application are those that pose a risk to more substantially impact human health and the environment. Examples include items in Sections IV through VII of the application and permit.

*Easier, Better, Faster Permitting:*

*Presenters: Adrienne Clark, Charles Brown, Chris Shaw*

*Time: 10:30-11:30 a.m.*

What format will I&HW request the date at the bottom of application pages? (i.e. month/year, month day year, etc.)
A: I&HW is in the process of finalizing the standard format and will share this information on the website once finalized.

**Closure Cost Estimates:**
*Presenters: Martin Torres, Drew Corson (AECOM)  
Time: 1:00-2:00 p.m.*

Can there be a variance to the 30 years of post-closure care?

A: Permittees must maintain at least the costs of 10 years of financial assurance for post-closure care.

Can the post-closure care costs be discounted for Operations & Maintenance?

A: Post-closure care cost estimates must include any operation and maintenance costs associated with the post closure care plan for a permitted unit. The post-closure cost estimates are calculated over a period of 30 years, which is the standard post closure care period. A facility may reduce the estimate by the number of years remaining in the post closure period, provided the following:

- The request will require a permit modification application,
- The post-closure period will never be shorter than 10 years.

When a cost estimate is submitted to the Financial Administration Division (FA) and accepted, what is the process to re-review it between renewals? Are the cost estimates public?

A: FA reviews the mechanism annually. Sometimes the cost estimates are public record unless they are marked confidential.

**Hazardous Waste Generator Improvement Rule:**
*Presenters: Andi Windham, Ed Minter, Will Wyman  
Time: 2:30-3:30 p.m.*

Will Texas adopt the less stringent portions of the federal hazardous waste generator rule? Will Texas reorganize their rules to match the newly reorganized federal rules?

A: The less stringent changes were included in the presentation to provide a more accurate representation of changes to the federal regulations, but Texas is not required to adopt them. Texas hasn’t initiated the rulemaking process so it is too early to say if Texas will adopt the less stringent items, or reorganize the rules.

What documentation will very small quantity generators (VSQGs) need to send to transport wastes to large quantity generators (LQGs)? Will transportation require a manifest?

A: Presenters were unsure, but reminded the audience that waste transportation is also subject to Department of Transportation regulations. According to EPA clarification: Federal rules do not require a hazardous waste manifest for these shipments. The states may be more stringent, and the decision will be made in Texas during the upcoming rulemaking process.

Is the petition for an unplanned event expected to meet the 72 hour notice requirement? Will Texas adopt this provision?

A: If Texas adopts that portion of the rule, yes. Texas hasn’t decided if it will be adopted (it is less stringent than current Texas regulations). The EPA rule includes an email notification – if it were adopted it would be a new process for Texas.

Will companies transferring waste from a VSQG to a LQG need an EPA transporter ID on public roads?

Draft document created by I&HW staff, last revised 8/2/17
A: Presenters were unsure, however conditionally exempt small quantity generators (as the current Texas regulations still reference them) aren't currently required to use a hazardous waste transporter. According to EPA clarification: VSQGs will not be required to use a hazardous waste transporter or a manifest. The labelling is the added requirement.

The new regulations indicate that reactive waste must be stored at the point of generation (satellite accumulation), can you share the location in the regulations?

A: The new requirement is located in the preamble. The EPA is clarifying the intention that it’s safer to manage the waste in a central accumulation area, rather than a remote area that’s not at the point of generation.

In the new regulations the EPA is requiring a more formal process for waste determinations. If a generator is meeting Texas Subchapter R requirements, do you anticipate big changes in the Texas regulations to meet the EPA rules?

A: Texas requires documentation for Class 1 waste determinations, but the new federal rule is not requiring documentation for non-hazardous waste determinations. Texas will determine if any changes will be made to incorporate the less stringent federal rules during the upcoming rulemaking process.

How would the generator consolidation rule affect interstate business?

A: Both the state of residence of the VSQG and the LQG, and any states the waste would be transported through, would need to adopt this part of the rule.

Will LQGs and permitted facilities need to modify their contingency plan to meet the new standards?

A: After the rule is adopted, most likely yes.

Does an LQG need to submit a closure notification to replace a tank?

A: Any unit listed on the notice of registration (NOR) needs to ultimately go through closure with the Corrective Action Section to fully close out a registration. Recommendation from presenter – don’t wait. It doesn’t get any easier to close it out, especially after a lengthy time period.

Will episodic generation that increases the generator status for a VSQG require the facility to do an annual report, or will it be excluded?

A: According to EPA clarification, episodic generators are not required to do biennial reporting. Under current Texas regulations a waste shipment summary is required for one time shipments, which covers reporting for those situations, particularly for VSQGs. For SQGs in Texas, they are covered by the annual waste summary and will convey the information in a biennial report, even though it’s not required by the federal rule. Therefore, reporting is not required for VSQGs in the federal regulations, but with the one time shipment regulations in Texas, there are reporting requirements. If Texas treats the episodic generation similarly, that will also cover reporting requirements for VSQGs.

Would a VSQG with a spill that meets the spill notification requirements meet the 72 hour requirement?

A: This has not been decided, but will be considered. Currently facilities that experience a spill need to contact TCEQ spill hotline.

Will the rules be adopted by July 1, 2018?

A: July 1, 2018 is our goal, but it’s not guaranteed. It won’t be regulated or enforced in Texas until Texas adopts any of the changes into our rules.
What is the adoption timeline for the items that are required to be adopted?

A: The Executive Director determines when we start rulemaking. Historically in Texas we wait until after the legislative session, in case there are any changes that need to be made in response to state legislative changes.

Will there be a TCEQ guidance document like the quick reference guide?

A: We’ll see what comments we get in rulemaking from the public.

**Waste Classification:**

*Presenter: Sheila Meyers*

*Time: 3:45-4:45 p.m.*

No questions from audience / presentation ran over time

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1 The phrasing for some of the questions and answers have been modified or expanded to provide clarification and maintain context.