

CWIS STAKEHOLDER MEETING
SEPTEMBER 10, 2015
PHASE II RULE

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SH [Stakeholder]: Are there any final numbers, yet, for the entrainment determination worksheet?
The entrainment determination worksheet provided is only a draft. Actual numbers have not been finalized. The worksheet is for educational purposes only.

SH: CCRS, is it a default? Information is required from the five factors (40 CFR §125.94(f)) for justification on BPJ.

SH [Comment]: The Annual Certification should be due on a specific date. This could be something TCEQ considers.

SH: What will be the process for (new) facilities that do not have any entrainment data? TCEQ may require permittee to collect that data.

SH: In connection with the previous question, can historical data be used for that requirement? TCEQ may allow historical data, based on a case-by-case basis.

SH: Will this rule include in its determination state endangered species? At this time, the rule only includes federal endangered species. The permittee should be careful to include ALL federally endangered species, though, such as aquatic, terrestrial and vegetative species.

SH: For permittee's working on permit applications what should be done about worksheet 11.0? The current worksheet should be used; TCEQ will review the application, with the current (old) worksheet until the next permit cycle.

SH: We are a stakeholder who receives their water from an independent supplier. Our supplier is not covered by a TPDES permit and we are not sure if their intake water is from WOTUS. Would we be covered by this new rule? Applicability is based on a case-by-case basis. TCEQ and the EPA are still discussing how independent suppliers should be considered under the new rule.

SH: As a stakeholder who's compliance schedule may delineate from the regular schedule, due to such requirements as the two-year study, what would the TCEQ like us to do? The permittee should submit their application as usual, but also include their plan for an alternative compliance schedule. The TCEQ will then review their application considering the alternative schedule.

SH: This stakeholder wonders how the permitting process will affect permittees, due to changes in procedure and conflicts with EPA. How will this affect permittees? TCEQ is working closely with EPA Region 6 to mitigate any potential problems with this process. We are working cooperatively with them.

SH [Sabine River Authority]: We do not think that our canal takes water from WOTUS. We wonder, though, who would be considered the "intake structure," the independent supplier, or the facility with the discharge permit? TCEQ has not yet made a decision on this issue.

SH [Comment]: TCEQ should consider the implications of including independent suppliers (such as the Coastal Water Authority) in this rule. If that were to happen, it would be very difficult for all parties (the permitting process would have to include everyone down the line). TCEQ should work with TWPD. TCEQ understands the difficulty of implementing this new rule and will consider that advice.

SH: For non-typical "intake structures" such as "pumping structures" in industrial facilities, wouldn't this new rule create impingement issues? Such cases will be considered as applications are reviewed.

SH: If an intake structure and pipeline are owned by a company without a NPDES permit, would they still be regulated? The EPA requires, by rule, for them to be regulated.

SH: Will facilities with a closed-cycle facility, not previously taking water from WOTUS, be considered under this rule? Closed-cycle system would not be considered covered under new rule.

SH: When should our next meeting be? If everyone is in agreement, our next meeting can be in 6 months, after we have had time to review applications, and have more concrete knowledge regarding specific BPJ issues.