


# TCEQ Interoffice Memorandum

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**To:**  Susan M. Jablonski, P.E., Central Texas Area Director

**Thru:** David Van Soest, Regional Director, Austin and Waco Regions  
Lori Wilson, Assistant Regional Director, Austin and Waco Regions  
Robert Sadlier, Section Manager, Edwards Aquifer Protection Program

**From:** Edwards Aquifer Protection Program Committee

**Date:** October 22, 2020

**Subject:** Recommendation on Guidance for Low Density Single-Family Projects Requesting the Less than 20% Impervious Cover Best Management Practice Exemption

Due to the need to memorialize current and historical implementations of exemptions and for further program clarity, the Edwards Aquifer Protection Program (EAPP) committee recommends the following written guidance be uniformly applied to ensure continued consistency in the EAPP's application processing.

## Brief Description

The EAPP, and the regulated community, will benefit from a written policy providing guidance on evaluating and preparing applications for low density single-family projects requesting an exemption from other permanent best management practices (BMPs) because the site, project, or phase has less than 20% impervious cover.

## Background

The exemption for other permanent BMPs is found in Title 30, Texas Administrative Code (TAC) Subsection 213.5(b)(4)(D)(ii)(III) and states:

Where a site is used for low density single-family residential development **and** has 20% or less impervious cover, other permanent Best Management Practices (BMPs) are not required. This exemption from permanent BMPs must be recorded in the county deed records, with a notice that if the percent impervious cover increase above 20% or the land-use changes, the exemption the whole site as described in the property boundaries required by 213.4(g) (relating to Application Processing and Approval), may no longer apply and the property owner must notify the appropriate regional office of the change.

While the Edwards Aquifer rules do not contain a definition for *low density*, the preamble to the Edwards Rules and other chapters of the TCEQ rules related to the Edwards Aquifer, point to the view of the commission that *low density* single-family residential development means residential development on one-acre lots or larger.

## Considerations

The exemption from other permanent water quality BMPs for single-family developments is not automatic. EAPP staff reviewing applications are required to verify **both** thresholds within the rule are met: the development is low density **and** the site, project, or phase has less than 20% impervious cover.

Currently, the EAPP is requiring single-family residential projects to meet a minimum of one-acre lot sizes in order to qualify under the first threshold for the exemption from other permanent water quality BMPs. The minimum lot size of one acre is based on estimates of impervious cover in the Edwards Aquifer Technical Guidance Manual (RG-348), Table 3.2. and the definition of *low density* in Optional Enhanced Measures, Appendix B guidance (RG-348b). The Optional Enhanced Measures, Appendix B guidance states that low density development

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typically consists of single-family homes on individual lots of approximately two acres or larger, and only those roads or utilities needed to serve those homes.

Based on the guidance and resources mentioned above, the EAPP committee asserts it is important for proposed projects to use the program's impervious cover estimates for single-family lots found in the Edwards Aquifer Technical Guidance Manual (RG-348, Table 3.2). Following the technical guidance, it was determined that each lot would have to be **at least one acre to be considered low density**. With one-acre lots, impervious cover would be approximately 16% which allows for streets and sidewalks to be added so that the overall impervious cover estimates should be less than 20%. Calculations for impervious cover can be found in Table 3.2 in the References section of RG-348. Each Water Pollution Abatement Plan (WPAP) or Contributing Zone Plan (CZP) submitted to the EAPP would be reviewed to confirm the lot estimates are correct, and all impervious cover surface assumptions are included.

Under 30 TAC Subsection 213.4(f), the TCEQ may impose additional provisions deemed necessary to protect the Edwards Aquifer from pollution. This may include having sufficient open space located immediately downgradient of streets or other impervious cover so streams or sensitive features do not receive untreated stormwater. The 20% exemption is itself a BMP for the site, project, or phase because it reduces and treats the volume of runoff from impervious cover at the site, project, or phase. The site, project, or phase must be designed such that pervious cover or greenspace functions to actually reduce and treat runoff from impervious cover.

A master planned subdivision containing a mix of proposed land-uses may be divided into land-use types for the purpose of requesting the single-family exemption. An applicant would need to provide a separate WPAP or CZP for the single-family portion(s) of a subdivision. Generally, other land-uses (i.e. school, fire station, amenity center, golf course, etc.) are submitted to the TCEQ as separate applications.

## Committee Recommendation

The EAPP committee recommends the EAPP continue to require individual lots one-acre or greater for single-family residential developments that seek the less than 20% impervious cover exemption from other permanent BMPs.

## References

Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer, TCEQ RG-348b, p. 16, "Low density development typically consists of single-family homes on individual lots of two acres or larger, and only those roads or utilities needed to serve those homes."

Edwards Aquifer Technical Guidance Manual, TCEQ RG-348, Table 3.2, p. 3-28

Lot Size (ac)	Lot Size (sq. ft.)	Impervious Cover (sq. ft.)	Impervious Cover (%)	Basis for Estimate
2	87,120	7000	8%	Table 3.2
1	43,560	7000	16%	Table 3.2
0.5	21,870	5000	23%	Table 3.2

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## [Feedback to the Committee](#)

The recommendation is accepted as proposed.

The recommendation is accepted with the following modifications. Comments:

[Click here to enter text.](#)

The recommendation is being returned for further consideration. Comments:

[here to enter text.](#)

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