Implementing HB 2771

Relating to Oil & Gas Discharges

Stakeholder Mtg
9/17/2019

HB 2771 Requirements

- Amended TWC § 26.131
- Upon delegation of authority by EPA, TCEQ may issue discharge permits for:

  - Produced water
  - Hydrostatic test water
  - Gas plant effluent

HB 2771 Requirements

- Upon delegation by EPA the following are transferred from RRC to TCEQ
  - Powers, duties, functions, programs, and activities related to the three types of discharges
  - Obligations and contracts directly related to implementing a transferred function
  - All property and records related to a power or duty transferred by HB 2771

HB 2771 Requirements

- Deadline to submit the petition requesting delegation to EPA is 9/1/21

- HB 2771 specifies that changes made apply to applications that are pending on or after the effective date of delegation by EPA

Elements of Delegation Application

- Governor's letter
- MOA with EPA
- Program description
- Attorney General statement of legal authority
- Underlying statutes and regulations

Elements of Delegation Application

- EPA has 30 days to determine if the petition is complete
- If complete, EPA has 90 days to approve or deny
- Deadline can be extended by agreement

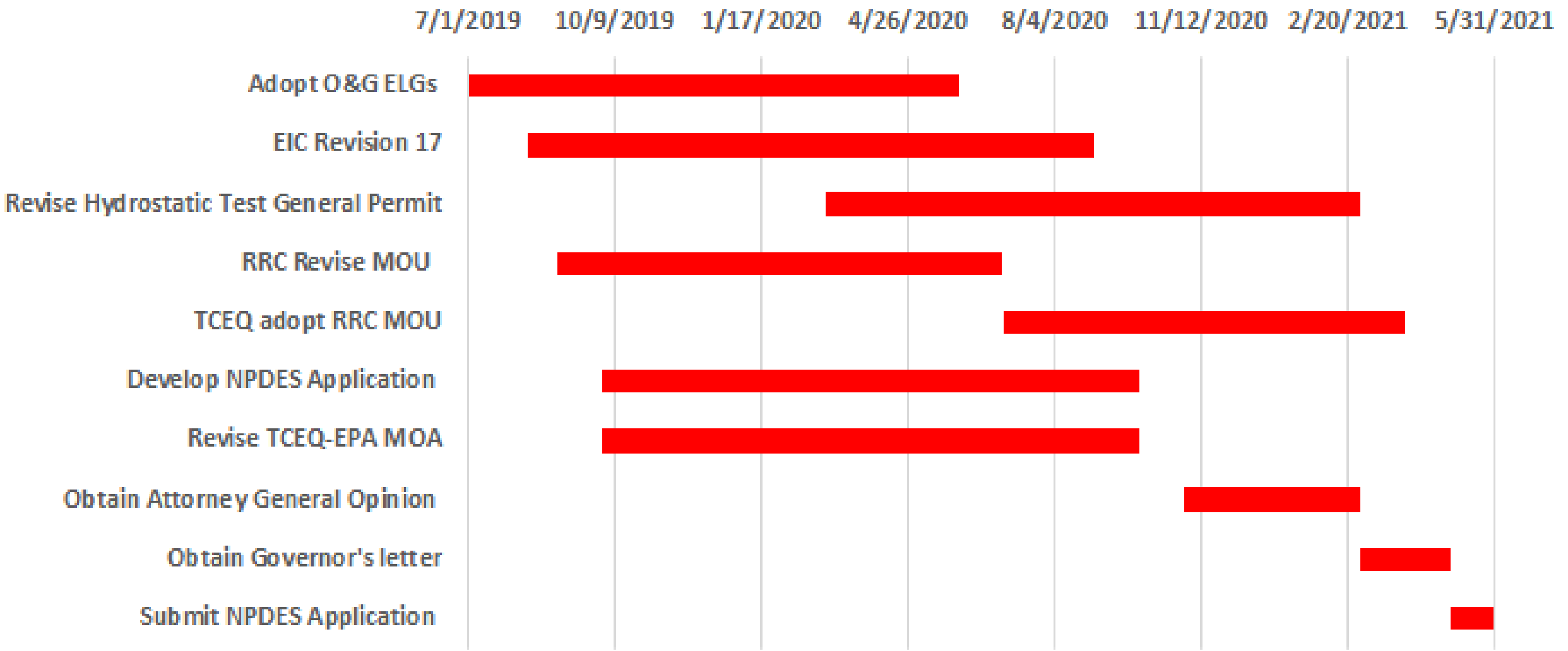
Elements of Delegation Application

- EPA must publish notice of petition in Federal Register and largest newspapers in the state

- EPA must allow a comment period on the petition

- Option for a public hearing after notice published in the Federal Register

HB 2771 Preliminary Schedule



Timeframes can change if elements can be completed sooner or in parallel.

Permit Application (Individual Permits)

- ❑ Administrative Report (Form 10411)
  - Applicant/Co-Applicant Information
  - Site Information
  - Notice Information
  - Discharge Location
  - Affected Landowner Information

Permit Application (Individual Permits)

- Technical Report (Form 10055)
  - Wastewater types
  - Treatment processes
  - Outfall and sampling point information
  - Receiving water information
  - Pollutant analyses

Permit Application (Individual Permits)

- Technical Report (Form 10055)
  - Impoundment information
  - Land application area information

Permit Process (Individual Permits)

- Administrative Review
- Technical Review
  - Receiving Water
  - Anti-backsliding
  - Endangered Species
  - Mixing Zones
  - Dissolved Oxygen Modeling
  - BioMonitoring
  - TexTox

Permit Process
(Individual Permits)

- ❑ EPA Review of Draft Permit
- ❑ Public Notices
  - Publish Notice of Application (NORI)
  - Publish Notice of Draft Permit (NAPD)
  - Bilingual Notices
  - Mailed Notice

Permit Process
(Individual Permits)

- Public Participation
  - Public Comments
  - Public Meetings
  - Contested Case Hearings

Application & Permit Process (General Permits)

Master General Permit

- ❑TCEQ drafts the MGP
- ❑EPA review of the draft permit
- ❑Public Notice
  - •TCEQ publishes notice in the Texas Register and at least one statewide newspaper (typically Houston Chronicle)
  - •Mailed notice (county judges & mailing lists)

Application & Permit Process (General Permits)

- Public Participation
  - Public Comments
  - Public Meetings
  - No Contested Case Hearing

Application & Permit Process (General Permits)

General Permit Authorizations

- Notice of Intent (NOI) Application (~5-10 pages)
- Administrative Review Only
- No Technical Review
- No public notice
- No public meeting
- No contested case hearing

Current Hydrostatic Test General Permit TXG670000

Authorizes the discharge of hydrostatic test water from:

- new vessels;
- vessels that contained raw water, potable water, or elemental gases; or
- vessels that contained petroleum substances or waste related to petroleum substances.

Current Hydrostatic Test General Permit TXG670000

Does not authorize discharges into or adjacent to water in the state from activities that are regulated by the Railroad Commission of Texas, including crude oil facilities.

Current Hydrostatic Test General Permit TXG670000

- NOI required for discharges from vessels that previously contained petroleum substances or waste related to petroleum substances.
- Provisional authorization begins 48 hrs after the postmark date on the NOI.

Current Hydrostatic Test General Permit TXG670000

Numeric Limits for Discharges to Water

Parameter	Daily Maximum
Total Petroleum Hydrocarbons	15 mg/L
Benzene	0.05 mg/L
Total BTEX	0.50 mg/L
Total Lead	0.10 mg/L[5]
Total Lead	0.02 mg/L[5]
pH	6.0 – 9.0 Std Units

TCEQ Fees

- Application Fees
  - Individual Permit: $1,215 – $2,050
  - General Permit: $100
- Annual Fees
  - Individual Permit: Based on factors in 30 TAC Chapter 21 (~75% are below $10,000)
  - General Permit: $100

TCEQ Compliance Investigations

- There are several reasons why a regulated entity might be investigated by TCEQ staff:
  - Regularly scheduled investigation
  - Complaint response investigation
  - U.S. EPA or TCEQ initiative
  - Spill response or emergency response
  - Referral from another governmental entity

Regularly Scheduled Investigations

- Compliance Evaluation Investigations (CEI)
  - By registration or permitting with the TCEQ, the facility becomes subject to a CEI that is scheduled on an established frequency
  - Generally, a CEI is conducted on regular intervals based on the type of permitted facility (i.e. once every three years)

Regularly Scheduled Investigations

- A CEI can be "announced" or "unannounced"
  - Dependent upon facility's Compliance History Rating
  - A rating assigned to the facility based on past compliance performance for the last five years
  - A rating of "high" or "satisfactory" gets notice
  - A rating of "unsatisfactory" does not get notice

Complaint Response Investigations

- TCEQ responds to all complaints received under its jurisdiction:
  - Information received from various sources (public, neighbors, employees, complaint referred from U.S. EPA, etc.)
  - Initiate an unannounced investigation that could be narrowly focused on a specific complaint or involve a full CEI
  - Policy is not to reveal the source of the complaintant, whether known or anonymous

Complaint Response Investigations

- Complaints are assigned a priority with corresponding investigation timeline
- Alleged health related issues are considered our highest priority

Compliance Monitoring Program

- ❑ Conduct Record Reviews –
  - Self Reported Data
  - Discharge Monitoring Reports (DMRs)

- ❑ Apply Enforcement Initiation Criteria (EIC):
  - Effluent violations
  - Missing DMRs (past 30 days violation in federal)
  - Discharging with an expired permit
  - Includes EPA SNC criteria as part of EPA delegation

Compliance Monitoring Program

- Issues Notices of Violation and Notices of Enforcement for permit violations
- Supports NetDMR reporting system - If you submit data to the TCEQ on a DMR, you must do so electronically.
- Ensure state-related data is uploaded and accurate in the federal database (ICIS-NPDES)

Enforcement Considerations

- TWC Chapter 7
  - Authorizes TCEQ to enforce on certain permitted activities,
  - Provides factors considered for penalties,
  - Maximum penalty may not exceed $25,000 day/violation.

- Commission's Penalty Policy- http://www.tceq.texas.gov/publications/rg/rg-253.html

Compliance History Program

- 30 Tex. Admin. Code Chapter 60
  - All persons subject to the requirements of Texas Water Code Chapter 26 are applicable to Compliance History.
  - Applicable to over 414,000 Regulated Entities

- Required when making decisions regarding:
  - Permitting
  - Announced Investigations
  - Participation in Innovative Programs
  - Enforcement

Questions???

Announcements

- Next Meeting: Dec. 5, 2019 @ 1:30 pm
- HB 2771 Email: HB2771@Tceq.Texas.Gov