

Proposed Changes to the BIG I-Plan

Implementation Activity 2.1.1: *Develop Utility Asset Management Programs for Sanitary Sewer Systems*

All permits for new WWTFs shall include a UAMP plan. Starting five years from the approval of the I-Plan, all permit renewals shall include a UAMP plan. As allowable by law, the UAMP plan should apply to any subscriber systems that contribute to the WWTF.

TCEQ Comment

The TCEQ would appreciate the option of considering if wastewater permits should include a UAMP on a case-by-case basis starting five years from the approval of the I-Plan. This would help the TCEQ manage resources and workloads.

Proposal for Discussion

All permits for new WWTFs shall include a UAMP plan. Starting five years from the approval of the I-Plan, all permit renewals shall include a UAMP plan. ***The TCEQ may exempt new and renewing WWTFs from this requirement on a case-by-case basis or as required by law.*** As allowable by law, the UAMP plan should apply to any subscriber systems that contribute to the WWTF.

Implementation Activity 2.5.1: *Identify subscriber systems*

Second, the BIG can petition the TCEQ for rulemaking to require registration of subscriber systems. As resources are available, H-GAC or another appropriate agency shall distribute information about subscriber systems. If stakeholder concerns regarding subscriber systems remain after five years, the BIG may consider petitioning the TCEQ to require that subscriber systems have their own wastewater discharge permits.

TCEQ Comment

The TCEQ believes that neither the statutes nor rules provide authority to require the subscriber systems to register with, or be permitted by, TCEQ. The TCEQ suggest that the BIG consider that if stakeholder concerns regarding subscriber systems remain after five years, the BIG consider consulting with the TCEQ to determine the available options to address the issue.

Proposal for Discussion

Second, the BIG can petition the TCEQ for rulemaking to require registration of subscriber systems. As resources are available, H-GAC or another appropriate agency shall distribute information about subscriber systems. If stakeholder concerns regarding subscriber systems remain after five years, the BIG may

consider ***consulting with the TCEQ to address subscriber systems or*** petitioning the TCEQ to require that subscriber systems have their own wastewater discharge permits.

Implementation Activity 2.6: Restructure Penalties for Violations

The TCEQ should evaluate penalties and recommend changes for consideration. The TCEQ should consider making penalties for repeat violations a more effective deterrent than they currently are.

TCEQ Comment

The TCEQ has revised penalties in the recently revised Penalty Policy # 3 (effective September 1, 2011). Penalties have increased to \$25,000 per day per violation for wastewater discharges. Previously it was \$10,000 per day per violation. By increasing the penalties it is anticipated that this will act as a deterrent towards repeat violations. Often there are other reasons for continued non-compliance such as a lack of money to fix the problems. The legislature changed the rules for Supplemental Environmental Project (SEP) money, so some wastewater systems may be eligible for a Compliance SEP which could allow them to invest their penalty money back into their system for repairs. The TCEQ will continue to examine enforcement, incentives, and training for improvement to encourage proper operations of Waste Water Treatment Plants. The TCEQ believes that it is not necessary to include this request at this time because the increased penalty policy needs the time to see if it has the desired effect.

Proposal for Discussion

The TCEQ recently revised its Penalty Policy #3 to address concerns raised during its most recent Sunset review. Furthermore, the legislature changed the rules for Supplemental Environmental Project (SEP) money to allow penalties to be spent on system repairs. By March 1, 2017, the TCEQ shall analyze and provide a report on the effectiveness of the new policy and rules during the first five years of their implementation. TCEQ shall review the report to determine whether the changes have caused the desired effects of deterring repeat violations and encouraging repairs to systems.

Upon evaluation of the report, the BIG shall determine whether to petition the TCEQ for further rulemaking if, in its opinion, the report does not indicate adequate progress.

~~The TCEQ should evaluate penalties and recommend changes for consideration. The TCEQ should consider making penalties for repeat violations a more effective deterrent than they currently are.~~

Implementation Activity 3.2.2: Encourage repair and pumpout logs be kept by homeowners and/or maintenance providers

Authorized agents are encouraged to persuade homeowners and/or maintenance providers to maintain repair and pumpout logs, which may consist of proof of a valid maintenance contract, for their facilities. Authorized agents may choose to require such logs by way of updates to their permit regulations.

IDDE Work Group Comment

The IDDE work group expressed continued concern about environmentally questionable practices by some waste haulers. The workgroup recommends that the BIG consider petitioning TCEQ to require generators or grease trap waste and grit trap waste and owners of on-site sewage facilities (OSSF) to keep all manifest records, or “trip tickets” for a period of three years from the date of pick up by the waste hauler and to make them available to regulatory authorities upon request.

This recommendation could be incorporated into “Implementation Activity 3.2.2: Encourage repair and pump out logs be kept by homeowners and/or maintenance providers.” Local governments that have been authorized by TCEQ to oversee OSSF permitting and enforcement may also consider such a requirement. Alternatively, informing OSSF owners and potential owners of the importance of verifying and retaining pump out trip tickets may serve to address concerns about tracking dishonest practices.

Proposal for Discussion

Authorized agents are encouraged to persuade homeowners and/or maintenance providers to maintain repair and pumpout logs, which may consist of proof of a valid maintenance contract **or copies of pumpout trip tickets (manifest records) and receipts for maintenance**, for their facilities. Authorized agents may choose to require such logs by way of updates to their permit regulations.

Recommendation: Implementation Activity 2.2: Address Fats, Oils, and Grease

This implementation activity encourages local governmental entities to require owners of sanitary sewer systems to determine the proper size for grease traps, to inspect them, and to require grease traps to be properly cleaned and otherwise maintained. H-GAC, in consultation with stakeholders and as resources allow, shall develop model language to facilitate the adoption of appropriate legal mechanisms. **The model language shall include requirements for the retention of pumpout trip tickets (manifest records provided by liquid waste haulers) and the provision of such records to regulatory authorities upon request.**

Implementation Activity 3.3: *Texas On-site Wastewater Treatment Research Council Fee*

As of 2010, new permit applications include a fee of \$10 to be directed to this council. This fee should be changed to \$20 for each OSSF by changing the Tex. Health and Safety Code Ann 367.010 and it implementing regulation 30 Tex. Admin. Code 285.21.

TCEQ Comment

Because state employees are prohibited from lobbying, the TCEQ cannot have a part in proposing any changes to legislation relating to the fee increase, and these activities would not be conducted by TCEQ staff. The TCEQ would appreciate clarification of this statement to make it clear that TCEQ would not have a role in this activity.

OSSF Work Group Comment

As a result of the Sunset Review of the Texas Onsite Wastewater Treatment Research Council, the Council has been ended and its responsibilities and obligations have been transferred to the TCEQ. The OSSF work group has recommended that this recommendation be removed from the plan if other changes are made to the plan.

Proposal for Discussion

Remove this recommendation from the plan.

Implementation Activity 4.3.1: *Encourage Expansion of Storm Water Management Programs*

The BIG encourages the TCEQ to consider bacteria loading when evaluating and approving MS4 permit renewals.

TCEQ Comment

Bacteria loadings are very difficult to determine and to help the TCEQ manage resources and workloads it would be more efficient to consider the effectiveness of proposed BMPs at reducing bacteria loadings.

Proposal for Discussion

The BIG encourages the TCEQ to consider ~~bacteria loading~~ ***bacterial non-point source pollution*** when evaluating and approving MS4 permit renewals.