


Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners Date: June 8, 2012

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From:  L'Oreal W. Stepney, P.E., Deputy Director
Office of Water

Subject: Docket No. 2011-1865-TML
Project No. 2012-009-TML-NR
Changes since back-up for the Implementation Plan for 72 TMDLs for Indicator
Bacteria in the Houston-Galveston Region

The attached documents contain revisions identified in highlight/strikeout which have been made since back-up was filed. Back-up material was submitted on May 25, 2012, for the June 13, 2012, Agenda.

The proposed changes in the following Implementation Activities in the BIG Implementation Plan are noted below:

- Page 56 — **2.1.1 Require a UAMP Plan as part of Wastewater permits.**
This change limits requested plans to wastewater permits within the BIG project area.
- Page 60 — **2.5.1 Identify Subscriber Systems.**
This change allows the BIG the additional option of consulting with the TCEQ on subscriber systems following a five-year period after the approval of the I-Plan.
- Page 61 — **2.6 Penalties for Violations.**
This change acknowledges that the TCEQ changed its penalty policy in response to the Sunset Legislation and will regularly review the policy.
- Page 66 — **3.3.1 Texas Onsite Wastewater Treatment Research Council Fee.**
This change deletes this subsection.
- Page 66 — **3.3.2 Model Order, Ordinance, or Resolution.**
This change reflects renumbering the item to 3.3.1 due to the deletion of 3.3.1.

- Page 67 – **3.3.3 Biennial Review.**

This change reflects renumbering the item to 3.2.2 due to the deletion of 3.3.1.

- Page 71 – **4.3.1 Encourage Expansion of Storm Water Management Programs.**

This change limits the activity to permits within the BIG project area.

Attachments

cc: Chief Clerk, 2 copies
Executive Director's Office
Susana M. Hildebrand, P.E.
Ann Idsel
Curtis Seaton
Office of General Counsel
Chip Morris
Monica Harris
Charlotte Horn

Proposed Changes to the BIG I-Plan

Implementation Activity 2.1.1: *Require a UAMP Plan as part of Wastewater permits*

The BIG requests that all permits for new WWTFs discharging into a stream within the BIG project area shall include a UAMP plan for any sanitary system owned and operated by the new WWTF. The BIG also requests that, starting five years from the approval of the I-Plan, all permit renewals for WWTFs discharging to a stream within the BIG project area shall include a UAMP plan for any sanitary system owned and operated by the WWTF. As allowable by law, the UAMP plan should apply to any subscriber systems that contribute to the WWTF.

The intent of the BIG is that all permits for WWTFs with authority over the collection system discharging to a stream within the BIG project area include requirements for UAMP plans. The BIG recognizes that valid constraints may prevent the TCEQ from including such requirements in all plans and that, in such situations, TCEQ may encourage those facilities to voluntarily develop such plans.

H-GAC or other appropriate entities shall, as resources are available, track the inclusion of UAMP plan requirements in WWTF permits and the voluntary development of UAMP plans by permitted facilities not subject to permit requirements for UAMP plans. The BIG shall evaluate the adoption of UAMP plans and whether additional actions should be recommended.

These recommendations are intended to reduce bacteria loading by reducing the possibility of malfunctions such as blockages, line breaks, inflow and infiltration of storm water and groundwater, lapses in operation, inadequate design and construction, power failures, and vandalism. By reducing the probability of malfunction, the BIG intends that UAMP plans will reduce the possibility of discharges of untreated or partially treated sewage from a sanitary sewer system, at the same time they improve the services provided to customers.

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 consulting with 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's existing penalties do not always deter poor maintenance or operation of sanitary sewer systems. Instead, some may consider penalties for sanitary sewer violations to be a cost of doing business that is less expensive than fixing the problem. The TCEQ should evaluate penalties and recommend changes for consideration. The TCEQ should consider making penalties for repeat violations a more effective deterrent than the currently are.~~

The TCEQ recently revised its Penalty Policy #3 to address concerns raised during its most recent Sunset review. The legislature added Texas Water Code Section 7.067 to allow the TCEQ discretion to approve a Supplemental Environmental Project (SEP) that would assist local governments that are respondents in enforcement actions to come into compliance with environmental laws or to remediate the harm caused by those violations. The Statute requires the TCEQ to review the penalty policy regularly.

~~Implementation Activity 3.3.1 *Texas Onsite 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 its implementing regulation 30 Tex. Admin. Code 285.21.~~

Implementation Activity 3.2.21: *Model Order, Ordinance, or Resolution*

Implementation Activity 3.3.32: *Biennial Review*

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 permits renewals within the BIG project area.