

Questionnaire
Texas Commission on Environmental Quality
Texas On-Site Wastewater Treatment Research Council

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Organization you represent: Water Environment Association of Texas

Area of interest: Municipal wastewater treatment, general water quality

Texas Commission on Environmental Quality

1. What changes should be made to the mission or functions of the Texas Commission on Environmental Quality (TCEQ)?

The current mission and functions of TCEQ are appropriate.

2. Should any changes be made to TCEQ's structure or organization? Does TCEQ coordinate well with other state, federal, and local agencies? Are any of its functions duplicative of other entities?

No changes should be made to TCEQ's structure or organization. For the most part, TCEQ coordinates well with other agencies. There does not appear to be any obvious duplication with other agencies.

3. Is TCEQ's regulation of Texas' environment appropriate to protect human and natural resources? Is its regulation fair to all participants? If not, what changes would you recommend?

The agency's current strategy is fair and appropriate. No major changes are recommended, however we suggest that additional consideration to the financial impact of environmental regulation should be considered in the future. Local government utilities will need to apply their resources to areas where there is the greatest environmental benefit.

4. How effectively does TCEQ fulfill its permitting responsibilities? What changes, if any, would you recommend?

The wastewater permitting process can be slow at times. The Sunset process should review opportunities to streamline permitting and add staff resources if necessary to expedite permitting. Consideration should be given to reducing the amount of submittal information required for standard permit renewals.

The Reclaimed Water Rules should be reviewed to identify opportunities to consolidate and/or reconcile requirements that are currently spread out through Chapters 210, 290 and 217.

We recommend that TCEQ adopt a more flexible approach for allowing continuing education credits for water and wastewater operators.

5. How effective are TCEQ's compliance and monitoring activities? What changes, if any, would you recommend?

Improved coordination of efforts between Regional offices and the Austin office, as well as increased staffing in Regional offices, might provide greater efficiencies for customers.

6. How effective is TCEQ's enforcement? What changes, if any, would you recommend?

TCEQ's current process is effective. However, there are several areas where some fine tuning of the process would help.

The compliance history process is too complicated and often does not give a true picture of a facility's status. Possible improvements to the process include:

- Eliminate enhancement to administrative penalties using compliance history (this is double counting of violations)
- Exclude self-reported violations as a component of compliance history until cited in an issued enforcement order.
- Redefine repeat violator as having more than one of the "same" major violations.
- Add provisions to allow a regulated entity to access its compliance history information prior to publication on the agency's website.
- Revise the repeal classification language to allow all average performers opportunity to appeal.

TCEQ has proposed these changes previously in rulemaking, but has never completed the process because of proposed legislation.

7. How well does TCEQ solicit public participation when developing agency guidelines, rules, and policies? What improvements can be made?

TCEQ's communication with stakeholders is exemplary. TCEQ provides ample opportunity for stakeholder input in all major rulemakings and policy initiatives and actively solicits public discussion and feedback. TCEQ should continue their current approach, but place a greater importance on potential financial impact to permittees as a result of new rules, guidelines or policies.

8. How well does TCEQ communicate with stakeholders and the public? Address complaints? What changes, if any, should be made in this area?

No changes recommended in this area.

9. Should the Texas Commission on Environmental Quality be continued for 12 years? Why or why not?

Yes.

Texas On-site Wastewater Treatment Research Council

10. Should the Texas On-site Wastewater Treatment Research Council be continued as a separate entity for 12 years? What changes should be made to its structure or functions? How effective is the Council's grant program?

N/A

Other

11. Please add any other comments about the Texas Commission on Environmental Quality or the Texas On-site Wastewater Treatment Research Council. If you would like to suggest any changes to the agencies, their operations, or their statute, please provide:

We believe that TCEQ should conduct water quality planning on a regional or watershed basis. However, we believe that development of regional water quality standards should be done as part of a comprehensive state-wide regional water quality planning process much like the state water planning process conducted by the TWDB.

(TCEQ)'s current process for triennial review and revision of state-wide water quality standards is driven by the requirements of the federal Clean Water Act. Although the TCEQ makes a concerted effort to obtain stakeholder input and is very receptive to stakeholder comments during this process, it is not a formal process that is designed, nor are there resources available, to look comprehensively at regional issues. In addition, there is very little in state law that speaks to regional water quality planning and regional standards. We believe the current process could be expanded into a comprehensive state-wide water quality planning process to develop regional standards.

When considering a state-wide regional water quality planning process, we suggest looking carefully at several points:

- Regional or basin water quality planning can be/should be tied to or integrated with the Clean Rivers Program and/or State Water Plan planning process for water resources. The framework already in place could be used for both purposes.
- All stakeholders should be involved. A regional or basin planning process provides an excellent platform for all interests to come together to identify the important water

quality issues for a region and evaluate the existing science and technology for addressing the issues. As part of the process, local authorities can agree on what and how to regulate locally, which will allow better coordination among local regulators.

- Regional/basin water quality planning provides an opportunity to study the science of a particular region which can provide valuable input to TCEQ's water quality standards setting process. In other words, regional/basin water quality planning would provide support to TCEQ's existing process, not replace it.
- We believe that regional/basin water quality planning will result in more appropriate local standards including both the designated uses and criteria used to gauge use attainment. More appropriate standards do not always mean more stringent standards. It does mean getting the correct uses designated and having criteria based on sound science.
- We acknowledge that a comprehensive state-wide regional water quality planning process will take time and cost money.

We would also like to note that the issue of regional water quality planning is being debated nationally. Mr. Paul Freedman, president of the Water Environment Federation, our parent organization, recently testified before Congress on this topic. In his testimony, Mr. Freedman notes that we are currently managing water quality in this country under a federal Act that was passed in 1972. It was appropriate for the conditions at that time and the Act has been effective in improving water quality in this country. However, Mr. Freedman notes that the effect today is like trying to repair a 2008 automobile with a 1972 manual. We've come a long way, but now it is time to "kick it up a notch" and start looking more closely at water quality on a regional level. This is particularly important in a state like Texas where needs, climate, and hydrology are so diverse.

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