



Sunset Advisory Commission
c/o Robert Romig, Project Manager
Attn: TCEQ
P.O. Box 13066
Austin, TX 78711
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VIA USPS Mail and E-Mail

RE: Water Environment Association of Texas Comments on TCEQ Sunset Review

Mr. Robert Romig:

Please accept these comments on behalf of the Water Environment Association of Texas ("WEAT") and the Texas Association of Clean Water Agencies ("TACWA") on the Texas Legislature's Sunset Review of the Texas Commission of Environmental Quality ("TCEQ"). WEAT and TACWA are non-profit technical and educational organizations whose members include engineers, scientists, utility managers, operators, and regulators. Our members are responsible for design, operation and maintenance of wastewater collection and treatment systems across Texas. Between the memberships of both organizations, we represent nearly 18 million rate payers in Texas.

WEAT and TACWA offer the following comments with regard to TCEQ's Sunset Review:

1. Permitting Efficiencies and Improvement Initiatives. WEAT/TACWA members regularly engage with TCEQ on various regulatory compliance matters, including Texas Pollutant Discharge Elimination System ("TPDES") permitting. Such TPDES permitting processes from application-to-adopted permit can span many months, or even years in some cases. WEAT and TACWA have been engaged in various stakeholder efforts with TCEQ to improve TPDES permit streamlining and encourages continued improvements on permit processing. As such, WEAT/TACWA and their members believe the current processing time can be improved upon without the addition of new public meeting requirements that the Texas Sunset Advisory Commission has recently recommended. WEAT/TACWA further support TCEQ's continued processing of TPDES permitting that is protective of our state's natural resources, and to the extent that additional staffing is necessary to fulfill TCEQ's statutory charges, WEAT and TACWA are supportive of such funding.

2. Online Notice Opportunities for TPDES Permits. In the spirit of improved permitting efficiencies, as noted above, WEAT and TACWA are also supportive of legislative efforts to allow for online publication of TPDES notices, and the potential for revisions to Texas Water Code Sections 5.552, 5.553, and 26.040. In fact, EPA has recently allowed for online publication at the federal level (see 84 Fed. Reg. 3338, Feb. 12, 2019), and as such, changes to Texas' notice publication statutes would bring our state requirements in line with the EPA online approach. By limiting the requirement for paper publication of TPDES notices, the TCEQ would simultaneously provide greater access to permit applications by an online approach that matches modern information sharing, and also reduce unnecessary cost



burdens to utilities currently required to publish relevant TPDES notices in newspapers of general circulation. As the Sunset Advisory Commission evaluates TCEQ's performance with its statutory charges, certain statutory provisions such as those referenced herein, can be revised to help fulfill the agency's obligations and also enhance public access to permitting information.

3. Nutrient Regulation. WEAT and TACWA also recommend a review of TCEQ's regulation of nutrients impacting water quality and TPDES permits. In particular, the WEAT Nutrient Ad-Hoc Working Group was established to evaluate the state of wastewater nutrient regulation in the state of Texas. The group has determined that nutrient wastewater regulation can be improved primarily in three aspects: Timeline, Predictability, and Collaboration.

In regard to timeline, currently, nutrient wastewater effluent limits are implemented through TPDES permits. Nutrient effluent limits can be added during the permit renewal application process, which requires a permittee to attempt to comply with an effluent standard that the treatment process was not designed to. If a permittee were to add nutrient treatment at the wastewater plant, most capital improvement projects (CIP) take 5-10 years to implement, which is greater than the 5-year permit term which is the limit of most permittees' outlook.

The issue of predictability stems from the difficulty in predicting a TPDES permit nutrient effluent limit. For all streams and rivers, and most reservoirs in the state of Texas nutrient numeric criteria do not exist. Therefore, a qualitative approach is used to determine the need for a limit and the final numeric nutrient effluent limit value. This process can be subjective and leave permittees unable to predict if they will receive a nutrient limit in the future and what that limit will be.

Collaboration can be improved in two ways. First, through the development of a framework in which all stakeholders (both point and non-point sources) can collaborate and contribute to nutrient reductions in a given watershed. Second, increased collaboration between regulators and the wastewater dischargers would greatly improve the nutrient regulatory process.

WEAT and TACWA appreciate the opportunity to provide these comments on TCEQ's Sunset review. On behalf of our members, we look forward to further engagement as the next legislative session approaches.

Sincerely,

Julie Nahrgang,
Executive Director