

Navigating the TCEQ Wastewater Permitting Process

Feb 1, 2023

Questions and Answers from the Chat

1. What determines the newspaper for the NAPD notice? For instance if the application is from an ETJ area with no jurisdiction?
 - a. The applicant must publish notice in the newspaper of largest circulation in the county in which the facility is located or proposed to be located or, if the facility is located or proposed to be located in a municipality, the applicant must publish notice in any newspaper of general circulation in the municipality.
 - b. If alternative language publication is also required, then the notice must be published in a newspaper or publication that is published primarily in the required alternative languages. The newspaper or publication must be of general circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, and there exists a newspaper or publication of general circulation in the municipality, the applicant shall publish notice only in the newspaper or publication in the municipality.
 - c. The newspaper notice is the only notice required of the applicant for the general public.
2. Is newspaper notice the only notice required?
 - a. The Chief Clerk will mail a notice to adjacent landowners and those one mile downstream from the planned wastewater discharge outlet (for TLAPs, one mile from the facility as the crow flies)
3. What is in the notice to adjacent landowners?
 - a. Notice sent is the NORI and the NAPD as the process moves on. You can request to be added to the mailing list by a) submitting a request online via the TCEQ CID, b) via mail/fax to the TCEQ chief clerk.
4. When should you reach out to your legislator to ask for a Public Meeting?
 - a. As early as possible if you think you will have concerns about the application and certainly **before the comment period closes**, because you want the legislator to ask for the public meeting before the comment deadline.
5. My local legislator requested a public meeting on the application to discharge into a local river. How can we find out when and where this is set? How can I register to receive notices?
 - a. If you're signed up to request notice, then you will be added to a list of folks receiving updates. You can ask TCEQ to be notified of any updates related to that application. Make sure you know the assigned water quality (WQ) permit number associated with the application. Found on the NORI or NAPD.
6. Do all applicants have to have a Public Involvement Plan (PIP)?
 - a. From the [TCEQ website](#): A Public Involvement Plan is necessary if a permit application (1) requires public notice, (2) is considered to have significant public interest, and (3) is located within specified locations (Austin, Dallas, Fort Worth, Houston, San Antonio, West Texas, Panhandle, Texas/Mexico Border, or other locations decided on a case-by-case basis). A PIP is necessary only if all of these requirements are met.

7. What determines a significant degree of community interest in an application?
 - a. Two things: 1) asking your your state legislator to request that TCEQ hold a public meeting in the affected area (key determinant) and 2) the amount of public comments submitted on the particular applicant.
8. If the application shows that the proposed facility complies with pollution limits, what grounds are there to contest the permit and for TCEQ to reject the application?
 - a. A variety of avenues can be taken to voice concerns for a permit application, even when TCEQ issues a draft permit/Notice of Application & Preliminary Decision (NAPD). Remember, a draft permit is not approval, it is only TCEQ staff saying they believe that the application complies with the rules and requirements. But protesting parties regularly disagree with staff's conclusions. For example, staff do not conduct site specific water quality testing, nor do they require applicants do testing. Often staff never even visit the site of the proposed discharge before drawing their conclusions, and they base a lot of their information on what is provided by the applicant. Additionally, our state water quality standards for nutrients are "narrative" standards, meaning there is not a precise limit for total nitrogen or total phosphorus in the water quality standards, only standards that say, for example, that excessive algae is not allowed and existing uses of the river must be maintained. **Since staff do not collect or review site-specific data, there is often disagreement on the nutrient limits.** Other types of issues protestants often raise in hearing requests are as follows:
 - i. The slated effluent discharge impact on the receiving water bodies' water quality
 - ii. Location of the facility in proximity to water wells
 - iii. Location of the facility & discharge point to the Edwards Aquifer Recharge Zone (EARZ)
 - iv. Wastewater Operator Licensing Level and any noted compliance issues
 - v. Any noted compliance issues from the applicant.
 - vi. Lack of beneficial reuse in the permit/application
 - vii. Disinfectant method (UV treatment vs chlorine contact)
 - viii. Any noted application discrepancies
 - b. At the end of the day, speak up and voice your concern! Contact your neighbors or HOA, contact No Dumping Sewage Coalition or other environmental groups, get in contact with your local state rep/county commissioner.
9. Does your testimony count if you live outside of one mile area?
 - a. Comments are considered from everyone as long as they are received before the comment deadline. Testimony from folks closer to the discharge point will often have more weight, but if you are outside of the one mile area, just be sure to articulate why you believe you'll be impacted. It is, of course, true that people will often be impacted further downstream, but if you or your organization want to request a hearing, it is good practice to make sure someone within that one mile also requests a hearing.

10. Why does TCEQ allow discharges to unnamed tributaries that go through private property without acquiring those easements through private property?
 - a. This would need to be assessed on a case by case basis. Generally, streams and creeks are “owned” by the state, even if they run through your property.
11. After a permit is approved, how does one know when it is active (i.e. the permit holding is disposing treated wastewater)?
 - a. There is not public notice of when discharge begins, but they do have to notify the TCEQ, and they also have to keep discharge monitoring reports, which are records of daily discharge flow that must be reported monthly to EPA and TCEQ. You can get some of this information online from EPA's Enforcement and Compliance History Online (ECHO) tool: <https://echo.epa.gov/>
12. Does TCEQ have any responsibility over drought control, such as limiting housing developments in areas already in severe drought?
 - a. This is not in TCEQ's jurisdiction. They can require that water systems have drought contingency plans, but even then they are not really able to enforce them. When it comes to water availability, you want to be talking to your city, county, and local Groundwater Conservation District.
13. Does a TLAP permit require soil on the land application area? If so, how much?
 - a. TCEQ requires a certain amount of soil to be present for the TLAP irrigation field, but soil can be brought in. We'll be covering TLAP in greater detail in a future webinar.
14. Does a TLAP require the applicant to own some or part of the land to be irrigated?
 - a. The rule requires TLAP owners/operators to own *or control* the land. So, my understanding is that leases are allowed, but they must be long-term and very reliable in order to be counted. Via the Reuse Credit, the Applicant can only offset the equivalent of 50% of their TLAP land (land they must own or control) with demand for 210 reuse.
 - b. In other words, a TLAP permittee must normally own or control all of the land to be irrigated, unless they can use the 210 Beneficial Reuse Credit, which allows them to offset up to 50% of that land, by demonstrating firm demand of 210 reuse.