

From: [Sunset Advisory Commission](#)
To: [Elizabeth Jones](#)
Subject: FW: Public Input Form for Agencies Under Review (Private/Before Publication)
Date: Monday, June 27, 2022 8:56:38 PM

From: Texas Sunset Advisory Commission <sunset@sunset.texas.gov>
Sent: Monday, June 27, 2022 4:50 PM
To: Sunset Advisory Commission <Sunset.AdvisoryCommission@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Private/Before Publication)

Submitted on Mon, 06/27/2022 - 13:34

Submitted by: Visitor

Submitted values are:

Choose the agency that you would like to provide input about

[Texas Commission on Environmental Quality](#)

Public Comments

1

First Name

Julie

Last Name

Nahrgang

Title

Executive Director

Organization you are affiliated with

Water Environment Association of Texas

Email

julie@weat.org

City

Austin

State

Texas

Your Comments or Concerns

See attached.

Your Proposed Solution

See attached.

Attachment

[WEAT_TACWA_Sunset_Comments_TCEQ_2022.06.27.pdf](#) (72.69 KB)

My Comments Will Be Made Public

Yes



Sunset Advisory Commission
c/o Jennifer Jones, Executive Director
Attn: TCEQ
P.O. Box 13066
Austin, TX 78711
sunset@sunset.texas.gov

VIA Sunset Public Input Form and E-Mail

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

Ms. Jones:

Please accept these comments on behalf of the Water Environment Association of Texas (“WEAT”) and the Texas Association of Clean Water Agencies (“TACWA”) regarding the Texas Legislature’s Sunset Review of the Texas Commission of Environmental Quality (“TCEQ”). WEAT/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, transmission, and treatment systems across Texas. Between the memberships of both organizations, we represent nearly 18 million rate payers in Texas.

WEAT/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. All plants that discharge treated wastewater into Texas surface water bodies must hold a TPDES permit from TCEQ, which must be renewed every five years, per federal law. Such TPDES permitting and permit renewal processes from application-to-adopted permit can take many months if not years in some cases. TPDES permits require a permit renewal to be submitted by 180 days (6 months) prior to the expiration of the existing permit, though in our members’ experience the most standard permit renewals still take longer than 6 months to finalize.

WEAT/TACWA have been engaged in various stakeholder efforts with TCEQ to streamline the TPDES permit process and encourage 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 in Recommendation 1.1 from the Texas Sunset Advisory Commission staff. 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/TACWA are supportive of such funding.

2. **Online Notice Opportunities for TPDES Permits.** With the same goal of improved permitting efficiencies noted above, WEAT/TACWA also support 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 for wastewater discharge permits (*see* 84 Fed. Reg. 3338, Feb. 12, 2019, as subsequently incorporated into the Code of Federal Regulations), and as such, changes to Texas’ notice publication statutes would bring our state requirements in line with the online option available nationwide. 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 both to help fulfill the agency's obligations and enhance public access to permitting information.

3. Nutrient Regulation. WEAT/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/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