

TCEQ Requests Public Input on Draft Wastewater Regionalization Guidance

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The Texas Commission on Environmental Quality (TCEQ) is inviting informal public comment on the draft TCEQ Regulatory Guidance Document for Evaluation of Regionalization for Potential New Wastewater Systems (“[Draft Regionalization Guidance](#)”). Under Section 26.081 of the Texas Water Code, TCEQ is required to implement a policy to “encourage and promote the development and use of regional and area-wide waste collection, treatment and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.”

TCEQ is authorized, under Section 26.0282 of the Texas Water Code, to deny or amend the terms and conditions of a proposed wastewater discharge permit based on consideration of need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems. The agency currently has in place certain [guidance](#) and [application materials](#) related to regionalization, and, as part of its permitting process, TCEQ requires that applicants for domestic wastewater discharge permits include justification of need and availability of regionalization. In response to a recent petition for rulemaking filed by certain municipalities, TCEQ’s Commissioners declined to grant the petition on the basis that the rule as proposed by the petitioners would not align with TCEQ precedent for consideration of regionalization and need but instead issued an [order](#) directing agency staff to work with interested persons to present a more comprehensive regionalization guidance document for presentation at a future TCEQ agenda or work session.

In September of this year, TCEQ developed the Draft Regionalization Guidance and it is now available for public input. The Draft Regionalization Guidance includes a description of its purpose and scope, a definition section, a description of statutory authorities, a summary of the guidance, an applicability section, an explanation of the roles of new and existing wastewater systems and TCEQ, a description of steps to follow in satisfying application requirements, resources for identifying and locating nearby wastewater systems, special cases that may apply to a proposed system and procedures for exception requests that, for example, might avoid the need to complete certain aspects of the regionalization portion of a permit application. In general terms, the Draft Regionalization Guidance provides that regionalization is feasible unless one of the following circumstances applies: (1) no other wastewater systems are within 3 miles of the proposed system; (2) requests for service from neighboring systems have been made but denied; or (3) the applicant can demonstrate that there is a valid basis for an exception from the regionalization policy based on

the cost analysis included in the application. For now, the Draft Regionalization Guidance does not specifically elaborate on an issue that has been of recent controversy – the nature and type of service conditions imposed by neighboring service providers that might in effect be considered a denial of service.

Interested stakeholders such as developers, municipalities or other domestic wastewater service providers may wish to consider providing comments to TCEQ. According to the agency's website, comments should be submitted no later than October 23, 2022 via email correspondence to Outreach@tceq.texas.gov. TCEQ indicates that a formal response will not be provided but agency staff may amend the Draft Regionalization Guidance in response to comments prior to its presentation to TCEQ Commissioners which is currently expected to occur in January of 2023. [Additional information](#) is available at TCEQ's website.

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