

From: Jack Coleman
Sent: Monday, August 10, 2020 4:54 PM
To: IPCOMMNT
Cc: Kim Laird; Dustin Roberts; Priscilla Hudson; Kimberly Rhodes
Subject: RE: Request for Input on Plastics
Attachments: Attachment 2 WQ0004013000 Equistar Chemicals LP November 26, 2019 Investigation
1611989 photos.pdf; Attachment 2 WQ0004013000 Equistar Chemicals LP November 26, 2019 Investigation 1611989 photos.pdf; Attachment 2 1633572_Generic Incident Zip Code 77590 Complaint
Photos.pdf

Please see answers to the below information requested. Let me know if you have any questions.

From: Texas Commission on Environmental Quality <tceq@service.govdelivery.com>
Sent: Thursday, July 9, 2020 3:04 PM
To: Kim Laird <Kim.Laird@tceq.texas.gov>
Subject: Request for Input on Plastics

Dear Stakeholders,

Thank you for your participation in the June 30th Standards Implementation Procedures stakeholder

meeting. As discussed, the TCEQ proposes to place a prohibition in wastewater permits for facilities

which handle plastic resin pellets generated at organic chemical manufacturing facilities, or packaged

and transported to processors for molding into plastic products. This proposal does not include post-

consumer refuse such as plastic bottles, straws, or bags.

The TCEQ requests your input on the following topics related to the plastics presentation which is

available on our website at https://www.tceq.texas.gov/waterquality/standards/WQ_stdts.

1. Please provide input on the following proposed definition of plastic (taking into consideration the

focus on pre-production plastic): Plastic means all forms of visible plastic produced, received, or handled

at the permittee's facility, including but not limited to: pellets, powder and flakes. I think this is fine.

2. TCEQ's intent is to regulate plastics visible to the naked eye, but please provide input on class sizes

for our review. Additionally, please provide input on the use of the word "visible" in the definition

above. This is a difficult question to answer. The class size depends on what is being manufactured at

the facility. If a product manufactured is "visible" and leaving a facility, it should be considered unauthorized. As for the definition of visible, I am just going to go with the Merriam-Webster definition,

and say plastic in the above listed forms that is "capable of being seen." I would consult TCEQ Litigation

for more knowledgeable legal opinions for the legal definition of visible.

3. In addition to the prohibition, permittees with stormwater outfalls under the Multi-Sector General

Permit or an individual permit will be required to develop a comprehensive set of Best Management

Practices to include within their Stormwater Pollution Prevention Plan. Please provide input to assist

with the identification of effective BMPs and potential sources of information such as "Operation Clean

Sweep". The onus has always been on a regulated entity to provide best management practices (BMPs)

for the identification of effective best management practices. However, there are different practices

needed for different areas for the facility. Chevron Phillips has an example of a list Best Management

Practices on their website.

<https://www.cpchem.com/sustainability/product-responsibility/pellet-management-best-practices>

The checklists on the Operation Clean Sweep Website appear to have information for regulated entities

and plastic pellets.

<https://www.opcleansweep.org/manual/checklist/>

4. Please provide input on additional requirements such as: outfall and receiving water inspections,

notification of spills and unauthorized discharges to Regional Office, recovery of released materials from

receiving waters, and clarification that the point of compliance for the prohibition on the discharge of

plastic is at the final outfall. In the Houston Region Office, the plastic pellets issue has primarily

complaint driven. Incident 337301 (received June 15, 2020 for BASF Freeport, RN100218049, Water

Quality Permit No. WQ0003977000), Incident 336039 (received May 25, 2020 for Equistar Matagorda

Plant, Water Quality Permit No. WQ0002481000), Incident 331273 (received February 25, 2020 for

Chevron Phillips Chemical Sweeny, Texas Facility, Water Quality Permit No. WQ0005147000), Incident

329595 (received February 4, 2020 at Generic Incident Zip Code 77590; no water quality permit was tied

to this investigation after the investigation was conducted), Incident 324008 (received October 30, 2019

at Ineos Chocolate Bayou Plant, Water Quality Permit No. WQ0001333000), Incident 324019 (received

October 30, 2019 at Ascend Performance Materials Chocolate Bayou Plant, Water Quality Permit No.

WQ0000001000), Incident 323260 (received on October 17, 2019 at Generic Incident Zip Code 77550;

no water quality permit was tied to this investigation after the investigation was conducted), Incident

322063 (received September 30, 2019 at Dow Chemical in Freeport, Water Quality Permit

WQ0000007000). In other words, a total of eight (8) complaints have been received with respect to

plastic pellets. Investigation 1610433 is the only one to date that has documented an official unauthorized discharge of plastic pellets. Both water quality and stormwater (multisector general

permit) inspections should be conducted to identify any issues with plastic pellets.

There is a section in a Texas Pollution Discharge Elimination System individual water quality permit that

says, "There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of

this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent

to water in the State at any location not permitted as an outfall or otherwise defined in the Other

Requirements section of this permit." However, a Water Quality Permit also currently says, "There shall

be no discharge of floating solids or visible foam in other than in trace amounts and no discharge of

visible oil." In other words, plastic pellets have to be observed leaving the facility "at any location not

permitted as an outfall or otherwise defined in the Other Requirements" in "wastewater" or "no discharge of floating solids.... in other than in trace amounts" to be considered "unauthorized." Plastic

pellet discharges should be included in Water Quality Non-Compliance Notifications.

Plastic pellets can also be encountered during an investigation where a discharge of pellets is found in

the receiving stream of a permitted outfall, yet there is difficulty in determining an alleged source. This

happened during a comprehensive compliance investigation conducted on November 26, 2019, where

plastic pellets were observed upstream and downstream of permitted outfalls at the site being investigated (See Attachment 2 WQ0004013000 Equistar Chemicals LP November 26, 2019 Investigation

1611989 photos.pdf) as well as pellets observed on site; however there were no pellets observed

physically leaving the facility investigated.

There are also cases where plastic pellets are found as a result of a complaint where no source could be

identified. This was the case for Investigation 1633572 conducted March 3, 2020 (Incident 329595

received February 4, 2020 at Generic Incident Zip Code 77590). Photos are attached showing the extent

of the investigation and where the pellets were located (See Attachment 2 1633572_Generic Incident Zip

Code 77590 Complaint Photos.pdf). No industrial facilities were identified as the single source of the

plastics. It is likely that there were multiple sources. I am not sure how recovery or clean up works in

these situations.

5. TCEQ is requesting stakeholder input regarding additional time to comply with the prohibition on

the discharge of plastic. The Texas Surface Water Quality Standards allow up to a three-year compliance

period. TCEQ is proposing that requests for a compliance period must justify the need for additional

time including a construction schedule to install new control structures or retrofitting existing systems

to achieve compliance. If approved, the compliance period will include submission of quarterly progress

reports. For an issue of this nature, I would recommend quarterly reporting. How is the enforcement

going to work for something like this? Is there going to be an Other Requirement put into a permit?

Please provide your comments to IPCOMMNT@tceq.texas.gov by 5:00 P.M., August 10, 2020.

Jack Coleman

TCEQ - Region 12

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