

# Edwards Aquifer Protection Program



## Plan Application Review and Approval Process Through Phases of Construction

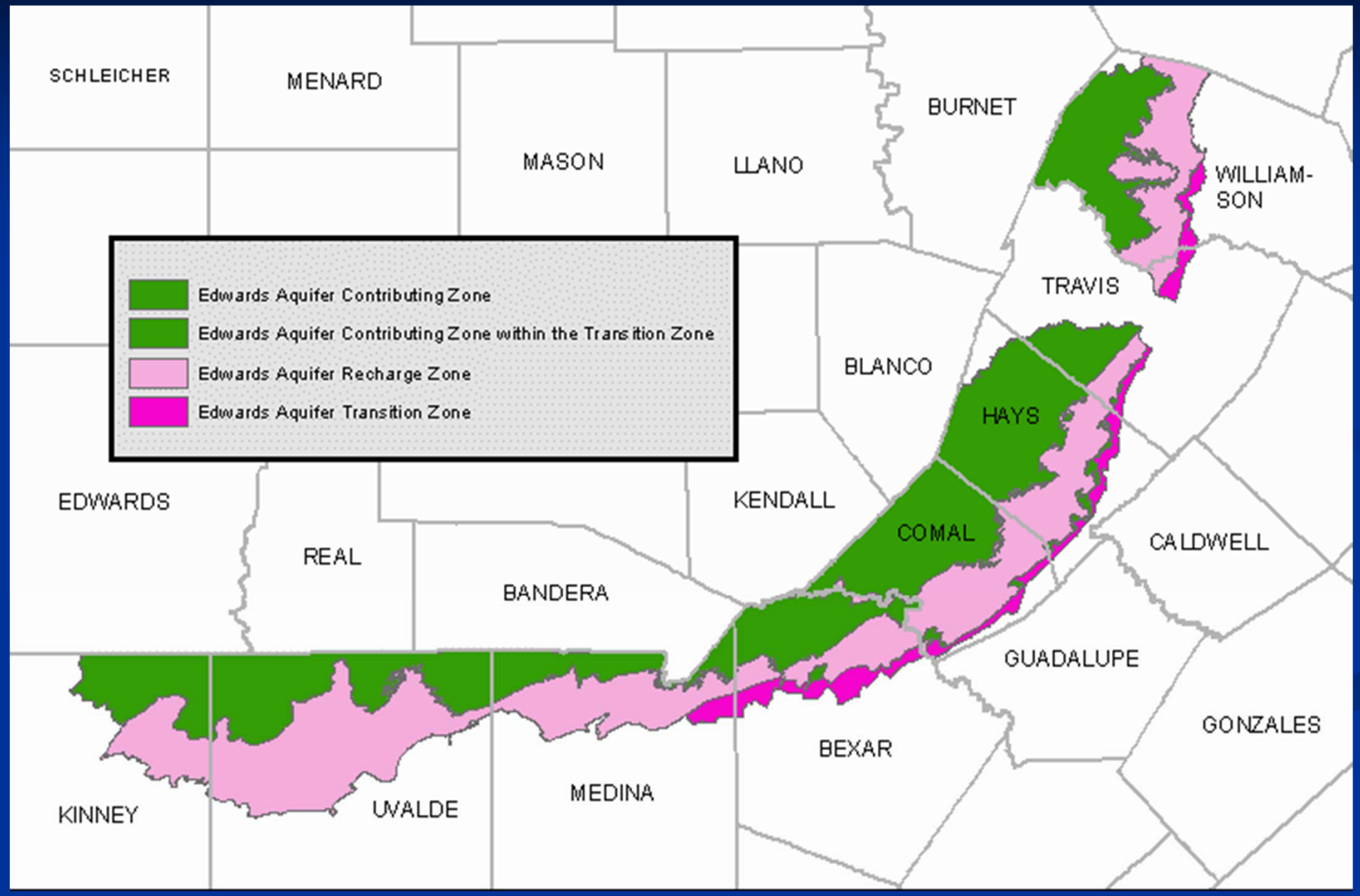
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# Regulatory Overview

- 30 TAC Chapter 213; Subchapters A & B
  - Adopted to protect the existing and potential beneficial uses of groundwater in the Edwards Aquifer
  - The activities addressed are those that pose a threat to water quality in the recharge, transition and contributing zones to the Edwards Aquifer
- Administered through TCEQ's Office of Compliance and Enforcement
  - Austin and San Antonio Region Offices
  - Protection Plan Application Review / Compliance and Enforcement
  - Pre-Construction, Active Construction, and Post-Construction Activities
- Edwards Aquifer Protection Plan Applications
  - Application approval required before initiating regulated activity
  - Water Pollution Abatement (WPAP), Contributing Zone (CZP), Underground and Aboveground Storage Tank (UST/AST) Facility, Sewage Collection System (SCS), Encountered Feature Mitigation, Exceptions

# Regulated Boundaries



# Pre-Construction Plan Submittal

- Austin Region (R11)
  - Hays, Travis, and Williamson Counties
- San Antonio Region (R13)
  - Kinney, Uvalde, Medina, Bexar, and Comal
- Edwards Aquifer Plan Types Per Zone
  - Recharge Zone (RZ) – 30 TAC Chapter 213 Subchapter A
    - Water Pollution Abatement
    - Sewage Collection System
    - Aboveground Storage Tank
    - Underground Storage Tank
  - Transition Zone (TZ) – 30 TAC Chapter 213 Subchapter A
    - Aboveground Storage Tank
    - Underground Storage Tank

# Pre-Construction Plan Submittal

- Edwards Aquifer Plan Types Per Zone
  - Contributing Zone (CZ) – 30 TAC Chapter 213; Subchapter B
    - Contributing Zone Plan
  - Contributing Zone within the Transition Zone (CZ/TZ)
    - 30 TAC Chapter 213; Subchapters A and B
    - Aboveground Storage Tank
    - Underground Storage Tank
- Modifications, Exception Requests, Extension Requests
  - Modification to plans required for physical modifications to SCS, AST, and UST systems, changes to WQ BMPs, changes to nature or character of regulated activity, developing land that approved as undeveloped
  - Exceptions to substantive provisions of the rule provided the requestor can demonstrate equivalent water quality protection
  - Plan approvals expire two years after their issuance if less than 10% of the project commenced but can be extended twice a year for an additional eight years. 50% project completion by 10 years or the plan will expire

# Application Review Process

- Only owners, their authorized agent(s), or those persons having the right to possess and control the property that is the subject of the Edwards Aquifer protection plan may submit the plan for review and approval
  - Owner Authorization – Needed when the applicant is not the owner
  - Agent Authorization – Allows TCEQ to communicate on an application
- Review of Edwards Aquifer Protection Plan Applications
  - Includes an administrative and technical review of submitted applications
  - Administrative Review – Completed the same day with some exceptions
  - Application acceptance meetings conducted with EAPP Staff who evaluate the application for completeness
  - Review application forms and attachments to confirm the minimum required contents of the application
  - Staff may provide guidance during the meeting on the technical content presented in the application

# Application Review Process

- Edwards Aquifer Protection Plan Administrative Review
  - Signatory authority requirements for TCEQ Core Data Forms (TCEQ-10400), owner authorizations, agent authorizations (TCEQ-0599), and Permanent BMP Inspection, Maintenance, Repair and Retrofit Plans (IMMR) for BMPs proposed in WPAPs and CZPs
  - Application fees based on classification and total acreage of the site
  - Edwards Aquifer protection plans must be declared administratively complete before they can be accepted for technical review
    - Administratively complete plans are usually entered into the agency's Central Registry system the same day
    - Copies of the plan are distributed to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located
    - 30-Day application comment period. Any person may file comments within 30 days of the date the application is mailed to local governmental entities
    - Comments that were timely filed will be reviewed and incorporated into Notices of Deficiency as applicable



# Application Review Process

- Administratively deficient plans will result in an Administrative Notice of Deficiency (NOD) being issued to the applicant and their agent
  - Administrative NODs will document the specific issues preventing the application from being declared administratively complete
  - Administrative NODs are entered into Central Registry
  - For time savings, agents are encouraged to e-mail completed TCEQ Core Data Forms to regional staff ahead of the intake meeting to pre-populate Regulated Entity and Additional ID Numbers
- Edwards Aquifer Protection Plan Technical Review
  - Technical Review – Usually completed in 60 days
    - Does not include 28 days of NOD response time provided to the applicant
  - Permanent BMPs and measures must be designed, constructed, operated, and maintained to insure that 80% of the incremental increase in the annual mass loading of total suspended solids from the site caused by the regulated activity is removed



# Application Review Process

- Edwards Aquifer Protection Plan Technical Review
  - The technical review process includes confirming that the designed TSS load removal requirement for the site have been met
  - Reviews the WPAP erosion and sediment controls proposed in the Temporary Stormwater section (TCEQ-0602)
    - For Contributing Zone Plans, use the Temporary Stormwater section form (TCEQ-0602) – OR –
    - A storm water pollution prevention plan (SWP3) developed in accordance with the TPDES Construction General Permit TXR150000 & 30 TAC Chapter 213.24(1-5)
  - Technical Notices of Deficiency – Up to two (2) NODs issued per application review; each with 14 calendar day response periods
    - Review staff may contact the applicant and/or their agent to discuss noted technical issues
    - The applicant and/or their agent may request meeting(s) with technical review staff





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# Application Review Process

- Technical Evaluation of the Geologic Assessment (GA) Report
  - Review staff will coordinate field visits to observe reported features
  - If additional natural features not included in the Geologic Assessment are observed by review staff, a Notice of Deficiency may be issued
  - The NOD may request further evaluation by the project geoscientist and may result in revisions being required to the GA report
  - Establishment of protective buffers for sensitive features observed during the TCEQ field visit may result in mid-review modifications being required to the applications; including revisions to construction plans and drawings signed, sealed, and dated by a Texas licensed professional engineer.
- Unresolved Technical Deficiencies
  - After the second NOD response period has concluded
    - The applicant may request to withdraw their application.
    - The application may be denied and application fees be retained
- Deed recordation – 30 days after approval; 60 days to submit proof of recordation to the appropriate regional office

# Total EAPP Plan Reviews

Fiscal Year	Region 11	Region 13	Total
FY08	378	347	725
FY09	271	243	514
FY10	240	223	463
FY11	298	264	562
FY12	284	251	535
FY13	361	278	639
FY14	457	311	768
FY15	434	289	723
FY16	470	352	822
FY17	486	312	798
FY18	258	163	421

# TPDES Considerations

- TPDES Individual and General Permitting for certain Storm Water Discharges
  - Administered through the TCEQ's Office of Water
  - TXR150000 Construction General Permit (CGP) permits operators authorized under its provisions to discharge storm water associated with construction activity
- CGP Part II, Section C(5) Limitations on Permit Coverage
  - Construction activities, including stockpiling and demolition, at sites also regulated under 30 TAC Chapter 213 **may not begin** until the appropriate Edwards Aquifer protection plan has been approved
  - For new discharges located on the Recharge and Contributing Zones, operators must meet all applicable requirements of, and operate according to, 30 TAC Chapter 213 (Edwards Aquifer Rule) in addition to the provisions and requirements of the CGP

# TPDES Considerations II

- CGP Part II, Section C(5) Limitations on Permit Coverage
  - Sediment and Erosion Controls, termed “Temporary BMPs” by the Edwards Rule, approved within WPAPs and most CZPs were prepared by or under the direct supervision of a Texas licensed professional engineer (P.E)
  - WPAP/CZP construction plans and design information are signed, sealed, and dated by a Texas licensed professional engineer
  - Proposed regulated activities shown on site plans, construction plans and design information, and protection buffers for sensitive Edwards Aquifer features may undergo revision during the application review process
  - SWP3 designers should refer to agency approved Edwards Aquifer protection plans before finalizing their SWP3 plans
- Erosion and Sediment Control Inspection Frequencies
  - Edwards Aquifer protection plans required weekly and after every rainfall
  - Consider adding sensitive feature buffers to SWP3 inspections











# TPDES Considerations III

- Field Changes and Modifications to BMPs During Construction
  - Under the TPDES Construction General Permit, Primary Operator(s) may have on-site operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications
  - For approved Edwards Aquifer protection plans, the holder must notify the appropriate regional office in writing and obtain approval prior to initiating certain modifications; 30 TAC Chapter 213.4(j)
    - Most field changes made to sediment and erosion controls during construction will not require modification to an approved WPAP or CZP
    - Pre-approval required prior to making physical and operational modifications to approved water pollution abatement structures such as ponds, berms, and diversionary structures
    - Increasing/Decreasing the size of drainage areas to permanent BMPs
    - Physical changes to SCS, AST, UST plans

# TPDES Considerations IV

- Field Changes and Modifications
  - TPDES CGP Operators should refer to approved Edwards Aquifer protection plans as applicable prior to initiating modifications to construction plans and design information prepared by Texas licensed professional engineers
  - EAPP Staff can provide technical guidance and clarification. Some requests for guidance or clarification may require the review of approved drawings in order to complete the request. Contact the EAPP Austin and San Antonio Regional Offices by phone or send the request via e-mail to [eapp@tceq.texas.gov](mailto:eapp@tceq.texas.gov)
- Post-Construction Water Quality BMPs & Soil Disturbing Activities
  - Permanent WQ BMPs may be constructed and placed into service while construction activities are still occurring within the approved BMP's drainage area
    - Permanent BMP functionality required prior to occupancy
  - Approved WQ BMP's are designed for post-construction storm water treatment and may clog early if exposed to stormwater with high concentrations of TSS
  - Inspection Frequencies of permanent BMPs may be increased as a condition of approval to the same schedule as TPDES Sediment Control BMPs and/or Edwards Aquifer Temporary BMPs.

# Active Construction I

- The applicant or plan holder must provide written notification of their intent to commence construction no later than 48 hours prior to commencement
  - Date on which the regulated activity will commence
  - Name of the approved plan
  - Name of the prime contractor with the name and phone number of their designated contact person
- SCS Lift Station and UST Tankhold Excavations
  - A P.G. must certify that the excavation has been inspected for the presence of sensitive features. The inspection certification must be submitted to the appropriate regional office
  - The certification must be signed, sealed, and dated by the P.G. preparing it
  - If sensitive features are observed, a mitigation plan must be proposed to protect the sensitive feature and Edwards Aquifer from potential impacts associated with the lift station
  - If no sensitive features were present in the excavation, construction may continue provided the P.G. certifies that none were present

# Active Construction II

## ■ Discovered Sensitive Features

- If any sensitive feature is discovered during construction, all regulated activities near the sensitive feature must be suspended immediately
- The Edwards Aquifer protection plan holder must immediately notify the appropriate regional office of the discovered sensitive feature encountered during construction
- Texas licensed professional geoscientist (P.G.) assessment of discovered feature
- Encountered Feature Mitigation Plan signed/sealed by P.G.
- Implement BMPs and/or other measures to temporarily protect the sensitive feature while the permanent mitigation plan is being reviewed by TCEQ.
- Consider covering the feature and diverting storm water around exposed openings
- The appropriate regional office must complete their review of the permanent methods and/or encountered feature mitigation plans within one week of receiving them









# Active Construction III

## ■ Discovered Sensitive Features and Sewage Collection System Plan Holders

- The location and extent of discovered sensitive features must be assessed by a geologist
- Must be reported to the appropriate regional office in writing within two working days of discovery
- The applicant and/or plan holder must submit a plan for ensuring the structural integrity of the sewer line or for modifying the proposed collection system alignment around the feature
- The plan must be certified by a Texas licensed professional engineer
- The plans must be submitted to the appropriate regional office for review and approval

# Post-Construction I

- Post-Construction Requirements for Approved Plans
  - Construction plans and design calculations for permanent BMPs and measures were prepared by, or under the direct supervision of, a Texas licensed professional engineer
  - All construction plans and design information are signed, sealed, and dated by the Texas licensed professional engineer
  - Owners of permanent BMPs and measures must insure that the BMPs and measures are constructed and function as designed
  - A Texas licensed professional engineer must certify in writing that the permanent BMPs or measures were constructed as designed
  - The certification letter must be submitted to the appropriate regional office within 30 days of site completion



Erosion

10/15/2009



# Post-Construction II

## ■ Soil Stabilization Measures

- Initiate stabilizing measures as soon as practicable to limit the potential for eroded materials to be transported into permanent BMPs or sensitive features
- Consider the use of geotextiles with artificial root systems
- For permanent BMPs constructed of earthen materials, slopes and areas adjacent to the BMP should be stabilized before put into operation

## ■ Compliance and Enforcement

- Citizen lodged complaints
- Call 1-888-777-3186 or use the online form off of TCEQ's home page
- Alleged violations observed during geologic site assessments

## ■ Notify TCEQ of a Discovered Sensitive Feature

- [eappvoid@tceq.texas.gov](mailto:eappvoid@tceq.texas.gov)





# QUESTIONS?

- TCEQ Austin Region Office
  - Williamson, Travis, and Hays Counties
  - Call 512-339-2929
  - E-mail – [eapp@tceq.texas.gov](mailto:eapp@tceq.texas.gov)
- TCEQ San Antonio Region Office
  - Kinney, Uvalde, Medina, Bexar, Comal
  - Call 210-490-3096
  - E-mail – [eapp@tceq.texas.gov](mailto:eapp@tceq.texas.gov)