



Gulf Coast Waste Disposal Authority

310 Bay Area Boulevard • Houston, Texas 77058

Phone: 281.488.4115 • Fax: 281.488.3331 • www.gcwda.com

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Office of Regulatory Policy and Management
Office of Policy
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1803A
Washington, DC 20460

RE: Docket ID No. EPA-HQ-OA-2017-0190

To Whom It May Concern:

On April 13, 2017, in accordance with Executive Order 13777, "Enforcing the Regulatory Reform Agenda (EO 13777)," the U.S. Environmental Protection Agency (EPA) published a request for input on regulations that may be appropriate for repeal, replacement or modification.¹ In response to that request for input, Gulf Coast Waste Disposal Authority (Authority) hereby submits these comments requesting modification of the final Effluent Limitations and Guidelines and Standards for the Oil and Gas Extraction Point Source Category that established pretreatment standards that prohibit the discharge of pollutants in wastewater from onshore unconventional oil and gas (UOG) extraction facilities to all publicly owned treatment works (POTWs), 81 Fed. Reg. 41,845 (July 28, 2016) (Oil and Gas Pretreatment Rule or Rule). The Authority requests that the EPA revise the Rule to exempt from its coverage discharges of UOG wastewater to POTWs that are designed to treat UOG wastewater. As EPA discussed in the preamble to the proposed Rule, wastewater treatment plants are currently being designed to treat wastewater from UOG operations. See 80 Fed. Reg. 18,570-18,571 (April 7, 2015). It is an unnecessary regulatory and economic burden on local governments to prohibit them from designing and building plants to treat UOG wastewater merely because the treatment plants would be publicly owned, and by definition, POTWs.

The Authority is a governmental entity created by the Texas legislature in 1969 to build, acquire, own and operate wastewater treatment facilities and related appurtenances and currently provides both industrial and municipal wastewater treatment services in Texas. Unique in Texas, the Authority operates specially designed industrial wastewater treatment plants under an exemption from federal categorical pretreatment standards for

¹ The goal of EO 13777 is to alleviate unnecessary regulatory burdens on the American people by identifying regulations that eliminate jobs, or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; are not based upon high quality, objective and transparent data, or that derive from or implement Executive Orders or other Presidential directives that have been rescinded or substantially modified.

industrial wastewater. The exemption allows the Authority to treat wastewater from diverse industrial customers without requiring them to install and operate costly, redundant pretreatment equipment. Each of the facilities uses unique treatment configurations to optimize treatment of specific wastestreams that are received at the facility. Under the Clean Water Act the Authority is defined as a municipality and its treatment plants are POTWs.

The Authority owns and operates four regional industrial POTWs: three in the Houston area and one in Odessa, Texas. Treated effluent from the Authority's Odessa POTW is already being used by upstream oil and gas companies for fracking operations. The Authority has been approached by oil and gas operators in Texas about the potential for the Authority to design and build POTWs to treat produced water from unconventional oil and gas activities such that it can be discharged to waters of the U.S. Thus, the Authority is a perfect example of the type of local government that can design and build facilities using innovative technology but that is prevented from doing so in certain areas by the Rule.

The Rule should be modified to allow specially designed POTWs to accept UOG extraction wastewater. Wastewater treatment facilities can be designed and constructed to treat unconventional oil and gas extraction wastewater. A privately-owned wastewater treatment facility designed to treat oily wastewater is regulated as a centralized waste treatment facility (CWT), 40 CFR Part 437, Subpart B. Under Part 437, Subpart B, facilities that are regulated as CWTs may accept UOG extraction wastewater, treat it and discharge it to POTWs or discharge it directly to waters of the U.S. No technical justification exists to prohibit specially designed publicly-owned treatment plants, which are essentially publicly-owned centralized waste treatment facilities, from accepting UOG extraction wastewater, treating it and discharging it in the same manner. Yet, the Rule prohibits it. The number of local governments with interest in designing such POTWs may not be large. But, local governments are fully capable of determining whether it is in the interest of their constituents to design and construct POTWs to provide this treatment. They should not be prohibited by an unnecessary "one-size fits all" national regulation from doing so. The Rule stifles innovation to develop new treatment technologies that will result in more water remaining in the ecosystem rather than being injected into UIC wells and permanently removed from the environment.

The Authority submits that the regulatory test for whether a POTW is designed to treat UOG extraction wastewater should be whether it is designed to properly manage and treat waters generated from UOG extraction and the resultant residuals. Because the POTWs will be designed to treat UOG extraction wastewater, the Authority recommends that the EPA not promulgate technology-based categorical pretreatment standards. Instead, it should be left to the POTW to control each UOG discharge through local limits that are set appropriately to complement the POTWs treatment system. The POTW itself will be controlled by a NPDES permit that includes technology-based limits based upon the permit writer's best professional judgment and any necessary water quality-based limits to meet applicable state water quality standards.

At the time that EPA proposed the Rule in April 2017, EPA stated in the preamble that it did not have any data to demonstrate that underground injection control (UIC) well capacity nationwide would be expended and that the current management approach [use of UIC wells] will not be available in the future. 80 Fed. Reg. 18,557, 18,574 (April 7, 2017). The Authority submits that just a few days after the proposed Rule was promulgated studies were published that began linking wastewater injection wells to earthquakes in certain parts of the United States. Given the developing concerns regarding earthquakes in and the advances in UOG extraction wastewater treatment technologies, the EPA should be seeking to expand alternatives to injection rather than restrict them.

In closing, the Authority requests that the Oil and Gas Pretreatment Rule be modified to exempt from its coverage the discharge of UOG extraction wastewater to POTWs that are designed to treat pollutants expected to be present in the wastewater.

The Authority appreciates the opportunity to provide input in furtherance of the goals of EO 13777 through Docket ID No. EPA-HQ-OA-2017-0190. We invite you to contact us regarding any questions related to these comments or any other topics relevant to the goals of EO 13777.

If you have questions please contact Leonard Levine at llevine@gcwda.com or at (281) 226-1124. Thank you for your consideration.

Sincerely,



Ricky Clifton
General Manager

RC:LT/am

cc: Lori Traweck
Gordon Pederson
Leonard Levine
Sara Burgin

Lori Traweck, Asst. General Manager, is a
Duly Authorized Representative of Ricky
Clifton, Principal Executive Officer of Gulf
Coast Waste Disposal Authority.

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