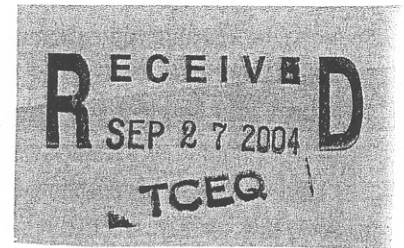




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

SEP 10 2004



Mr. Dan Eden, Acting Deputy Director  
Office of Permitting, Remediation & Registration (MC-122)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Dear Mr. ~~Eden~~ <sup>Dan</sup>:

The Environmental Protection Agency (EPA) has completed its review of several provisions in the *Texas Surface Water Quality Standards* (TX WQS). These standards were adopted by the Texas Natural Resource Conservation Commission, now the Texas Commission on Environmental Quality (TCEQ), on July 26, 2000, and submitted to the EPA for approval on September 27, 2000. I am pleased to inform you that the EPA is approving the provisions documented in the enclosure to this letter, pursuant to §303(c) of the Clean Water Act (CWA) and the implementing regulation at 40 CFR Part 131. These items include provisions for variances, temporary standards and water effects ratios, definitions, minerals criteria for 55 segments, revisions to segment boundaries and site-specific aluminum criteria for two water bodies.

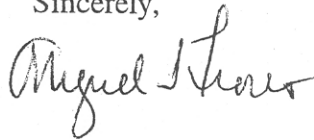
EPA is taking no action on the revised definition of "surface water in the state" in the TX WQS, which includes an area out 10.36 miles into the Gulf of Mexico. Under the CWA, Texas does not have jurisdiction to regulate water standards more than three miles from the coast. Therefore, EPA's approval of the items in the enclosure recognizes the state's authority under the CWA out to three miles in the Gulf of Mexico, but does not extend past that point. Beyond three miles, EPA retains authority for CWA purposes. EPA's approval also does not include the application the TX WQS for the portions of the Red River and Lake Texoma that are located within the state of Oklahoma. Finally, EPA is not approving the TX WQS for those waters or portions of waters located in Indian Country.

The EPA has completed consultation with the U.S. Fish and Wildlife Service (USFWS) under §7(a)(2) of the Endangered Species Act (ESA). §7(a)(2) of the ESA states that "each Federal agency shall...insure that any action authorized, funded, or carried out by such agency...is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of such habitat of such species." The USFWS concurred with the EPA's finding that approval of the site-specific standards listed in the enclosure is not likely to adversely affect endangered/threatened species or critical habitat. For some provisions in this action, EPA has made a determination that its approval will have no effect on federally-listed species or critical habitat, which does not require consultation with the USFWS.

The EPA previously approved the human health provisions in the TX WQS; revised minerals criteria for numerous segments in Appendix A - Site-specific Uses and Criteria for Classified Segments; the revised standards for segment 0230 - Pease River in Appendix A; all new and revised standards in Appendix D - Site-specific Receiving Water Assessments; and, criteria based on seven of the water effects ratios for copper in Appendix E. The EPA will take separate action on the remaining new and revised parts of the TX WQS.

I would like to commend the TCEQ staff for its commitment in completing the task of reviewing and revising the state's water quality standards. If you have any questions or concerns, please contact me at (214) 665-7101, or have your staff contact Diane Evans at (214) 665-6677.

Sincerely,



Miguel I. Flores  
Director  
Water Quality Protection Division

Enclosure

cc: Jim Davenport, TCEQ- Water Quality Assessment Section (MC-150)  
Allen White, USFWS - Austin Ecological Services Office

### **§307.2. Description of Standards**

§307.2(d)(5). Temporary variances. The temporary variance provision was updated to include the Texas Pollutant Discharge Elimination System (TPDES) permitting program. Language was added to specify that effluent limitations to protect the current standards will be included in the permit and will become effective if the permittee doesn't fulfill the requirements of the variance. The requirement for an opportunity for public comment was also added. The revised standards also clarify that a facility must have complied with the conditions of the variance in order to receive a variance extension or a compliance schedule in the succeeding permit.

§307.2(f). Permit schedules to meet standards. The provision for compliance schedules was updated with a reference to the variance provision in §307.2(d)(5). The requirement of completion of a site-specific criteria study prior to approval of a variance extension was moved to §307.2(d)(5)(E).

§307.2(g). Temporary standards. A provision for temporary standards was added in the triennial revision. A temporary standard may be adopted for a specific parameter when a criterion is not attained due to one of the factors listed in the §131.10(g) of the federal water quality standards (WQS) regulation. Temporary standards may be implemented through the TPDES permitting process, but must be adopted in an interim or triennial revision of the *Texas Surface Water Quality Standards* (TX WQS). Also, a temporary variance may be issued for three years, but a temporary standard expires with the next triennial revision of the TX WQS.

§307.2(h). Effective date of standards. This new section specifies that the TX WQS are effective as state law 20 days after filing with the office of the secretary of state. It also references the federal WQS regulation, which states that new and revised standards are effective for Clean Water Act (CWA) purposes upon approval by EPA.

§307.2(i). Effect of conflict or validity of rule. This new provision states that any portion of the WQS which is found to be invalid does not affect other parts of the WQS. It also states that §307 shall supercede, if conflicts with other TCEQ rules are identified and can't be resolved.

Additional editorial changes in §307.2, which don't alter the meaning or implementation of the WQS, were made and are approved.

### **§307.3. Definitions and Abbreviations**

§307.3(a). Definitions. The following definitions were added to the TX WQS:

attainable use	pollution
bioconcentration factor	presumed use
biological integrity	public drinking water supply
classified	seagrass propagation
designated use	segment
E. coli	storm water
enterococci	storm water discharge
existing use	tidal
incidental fishery	to discharge
intermittent streams with perennial pools	total maximum daily load
point source	wetlands water quality functions

The following definitions were modified in the 2000 TX WQS:

best management practices	seven-day two-year low-flow
discharge permit	standards implementation procedures
fecal coliform	toxicity biomonitoring
minimum analytical level	water-effects ratio
mixing zone	

EPA is taking no action on the revised definition of "surface water in the state," which includes an area out 10.36 miles into the Gulf of Mexico. Under the CWA, Texas does not have jurisdiction to regulate water standards more than three miles from the coast. Therefore, EPA's approval of the items in this action recognizes the state's authority under the CWA out to three miles in the Gulf of Mexico, but does not extend past that point. Beyond three miles, EPA retains authority for CWA purposes.

The definition for "commission," was deleted. The definition of "marine waters" was changed to "saltwater," but the meaning has not changed. The definition of "no significant aquatic life use" was replaced with a corresponding definition of "significant aquatic life use," but the level of protection in the TX WQS was not altered.

§307.3(b). Abbreviations. Abbreviations were added in the triennial revision for the following terms:

- Chemical Abstracts Service Registry number (CASRN)
- maximum contaminant level (MCL)
- municipal separate storm sewer system (MS4)
- total maximum daily load (TMDL)
- Texas Pollutant Discharge Elimination System (TPDES)
- total suspended solids (TSS)

Additional editorial changes in §307.3, which don't alter the meaning or implementation of the WQS, were made.

**§307.6. Toxic Materials**

§307.6(c)(9). Language to implement water effects ratios through TPDES permits was added in the 2000 TX WQS. Public participation on site-specific criteria will be provided during the permit application process. EPA will consult under the Endangered Species Act on individual water effects ratios, as appropriate, prior to implementation in TPDES or National Pollutant Discharge Elimination System (NPDES) permits. The provision states that the water effects ratio is assumed to be equal to one unless site-specific data has been collected. Site-specific criteria developed by water effects ratios will be included in Appendix E at the time of the next triennial revision.

**Appendix A - Site-specific Uses and Criteria for Classified Segments**

Segment	Water body	County	Parameter	2000 TX WQS
0229	Upper Prairie Dog Town Fork Red River	Armstrong Randall	chloride sulfate TDS	350 mg/l 675 mg/l 2000 mg/l
0408	Lake Bob Sandlin	Camp Titus Franklin	chloride	50 mg/l
0409	Little Cypress Bayou (Creek)	Harrison Marion Gregg Upshur Wood	sulfate	50 mg/l
0502	Sabine River Above Tidal	Orange Newton	chloride sulfate TDS	50 mg/l 50 mg/l 200 mg/l
0503	Sabine River Above Caney Creek	Newton	chloride sulfate TDS	50 mg/l 50 mg/l 200 mg/l
0504	Toledo Bend Reservoir	Newton Sabine Shelby Panola	sulfate	50 mg/l
0505	Sabine River Above Toledo Bend Reservoir	Panola Rusk Harrison Gregg	sulfate	100 mg/l

Segment	Water body	County	Parameter	2000 TX WQS
0602	Neches River Below B. A. Steinhagen Lake	Orange Hardin Tyler Jasper	sulfate TDS	50 mg/l 200 mg/l
0603	B. A. Steinhagen Lake	Tyler Jasper	sulfate TDS	50 mg/l 200 mg/l
0604	Neches River Below Lake Palestine	Tyler Jasper Polk Angelina Trinity Houston Anderson Cherokee	sulfate TDS	50 mg/l 200 mg/l
0609	Angelina River Below Sam Rayburn Reservoir	Jasper	sulfate	50 mg/l
0610	Sam Rayburn Reservoir	Jasper Sabine Angelina San Augustine Nacogdoches	chloride sulfate TDS	100 mg/l 100 mg/l 400 mg/l
0611	Angelina River Above Sam Rayburn Reservoir	Angelina Nacogdoches Cherokee Rusk	sulfate	50 mg/l
0612	Attoyac Bayou	San Augustine Nacogdoches Shelby Rusk	TDS	200 mg/l
0613	Lake Tyler/Lake Tyler East	Smith	chloride sulfate TDS	50 mg/l 50 mg/l 200 mg/l
0615	Angelina River/ Sam Rayburn Reservoir	Angelina Nacogdoches	chloride sulfate TDS pH	150 mg/l 100 mg/l 500 mg/l 6.5-9.0
0818	Cedar Creek Reservoir	Henderson Kaufman	sulfate	100 mg/l

Segment	Water body	County	Parameter	2000 TX WQS
0820	Lake Ray Hubbard	Kaufman Dallas Rockwall Collin	chloride sulfate TDS	100 mg/l 100 mg/l 500 mg/l
1003	East Fork San Jacinto River	Harris Montgomery Liberty San Jacinto Walker	sulfate	50 mg/l
1010	Caney Creek	Harris Montgomery Walker	sulfate	50 mg/l
1011	Peach Creek	Montgomery San Jacinto Walker	sulfate TDS	50 mg/l 300 mg/l
1012	Lake Conroe	Montgomery Walker	sulfate TDS	50 mg/l 300 mg/l
1015	Lake Creek	Montgomery Grimes	sulfate	50 mg/l
1212	Somerville Lake	Lee Burleson Washington	chloride TDS	100 mg/l 400 mg/l
1217	Lampasas River Above Stillhouse Hollow Lake	Bell Burnett Lampasas Hamilton	chloride sulfate TDS	500 mg/l 100 mg/l 1200 mg/l
1226	North Bosque River	McLennan Bosque Hamilton Erath	chloride sulfate	100 mg/l 100 mg/l
1242	Brazos River Above Navasota River	Grimes Washington Brazos Burleson Robertson Milam Falls McLennan	chloride sulfate TDS	350 mg/l 200 mg/l 1000 mg/l

Segment	Water body	County	Parameter	2000 TX WQS
1246	Middle Bosque/ South Bosque River	McLennan Coryell	chloride	50 mg/l
1247	Granger Lake	Williamson	chloride sulfate TDS	50 mg/l 50 mg/l 400 mg/l
1252	Lake Limestone	Robertson Leon Limestone	chloride sulfate TDS	50 mg/l 50 mg/l 300 mg/l
1256	Brazos River/Lake Brazos	McLennan	chloride sulfate TDS	400 mg/l 200 mg/l 1150 mg/l
1257	Brazos River Below Whitney Lake	McLennan Bosque Hill	TDS	1450 mg/l
1302	San Bernard River Above Tidal	Brazoria* Wharton Fort Bend Colorado Austin	chloride sulfate	200 mg/l 100 mg/l
1402	Colorado River Below La Grange	Matagorda* Wharton Colorado Fayette	chloride sulfate TDS	100 mg/l 100 mg/l 500 mg/l
1403	Lake Austin	Travis	chloride sulfate TDS	100 mg/l 75 mg/l 400 mg/l
1404	Lake Travis	Travis Burnet	chloride sulfate TDS	100 mg/l 75 mg/l 400 mg/l
1405	Marble Falls Lake	Burnet	chloride sulfate TDS	125 mg/l 75 mg/l 500 mg/l
1406	Lake Lyndon B. Johnson	Burnet Llano	chloride sulfate TDS	125 mg/l 75 mg/l 500 mg/l
1407	Inks Lake	Burnet Llano	chloride sulfate TDS	150 mg/l 100 mg/l 600 mg/l



Segment	Water body	County	Parameter	2000 TX WQS
1408	Lake Buchanan	Burnet Llano San Saba Lampasas	chloride sulfate TDS	150 mg/l 100 mg/l 600 mg/l
1409	Colorado River Above Lake Buchanan	San Saba Lampasas Mills	sulfate TDS	200 mg/l 900 mg/l
1414	Perdernalles River	Travis Hays Blanco Gillespie Kimble	chloride sulfate	125 mg/l 75 mg/l
1415	Llano River	Llano Mason Kimble Sutton Edwards	chloride sulfate TDS	50 mg/l 50 mg/l 350 mg/l
1416	San Saba River	Mills San Saba McCulloch Mason Menard Schleicher	chloride sulfate	50 mg/l 50 mg/l
1428	Colorado River Below Town Lake	Bastrop Travis	chloride sulfate TDS	100 mg/l 100 mg/l 500 mg/l
1429	Town Lake	Travis	sulfate TDS	75 mg/l 400 mg/l
1434	Colorado River Above La Grange	Fayette Bastrop	chloride sulfate TDS	100 mg/l 100 mg/l 500 mg/l
1604	Lake Texana	Jackson	chloride sulfate TDS	100 mg/l 50 mg/l 500 mg/l
1605	Navidad River Above Lake Texana	Jackson Colorado Lavaca	sulfate	50 mg/l

Segment	Water body	County	Parameter	2000 TX WQS
1802	Guadalupe River Below San Antonio River	Calhoun* Refugio Victoria	chloride sulfate TDS	150 mg/l 100 mg/l 700 mg/l
1911	Upper San Antonio River	Karnes Wilson Bexar	chloride sulfate TDS	150 mg/l 150 mg/l 750 mg/l
1912	Medio Creek	Bexar	chloride sulfate TDS	150 mg/l 150 mg/l 750 mg/l
1913	Mid Cibolo Creek	Bexar Guadalupe Comal	chloride sulfate TDS	150 mg/l 150 mg/l 750 mg/l
2110	Lower Sabinal River	Uvalde	sulfate	100 mg/l
2309	Devils River	Val Verde Sutton	chloride sulfate	50 mg/l 50 mg/l

Segment 2308 - Rio Grande below International Dam. EPA is taking no action the public water supply use included in Appendix A. This use included in the proposed 2000 TX WQS, but withdrawn in the preamble to the adopted TXWQS based on updated information.

**Appendix B - Low Flow Criteria**

The 7Q2 and harmonic mean critical condition flows in Appendix B were re-calculated with additional instream flow data. EPA takes no action on Appendix B and considers this to be an NPDES/TPDES implementation provision.

**Appendix C - Segment Descriptions**

Appendix C of the TX WQS provides location descriptions for classified water body segments in Texas. In the 2000 revisions to the TX WQS, changes were made to some of the segment descriptions.

New segments		
Segment number	Segment name	Created from previous (1997 TX WQS) segment(s)
0230	Pease River	0220 - Pease/North Fork Pease River ( <i>Boundary revisions for segments 0220 and 0230 were previously approved</i> )
0502	Sabine River Above Tidal	0501 - Sabine River Tidal and 0503 - Sabine River Below Toledo Bend Reservoir
0615	Angelina River/Sam Rayburn Reservoir	0610 - Sam Rayburn Reservoir
1256	Brazos River/Lake Brazos	1242 - Brazos River Below Whitney Lake
1257	Brazos River Below Whitney Lake	1242 - Brazos River Below Whitney Lake
1802	Guadalupe River Below San Antonio River	1803 - Guadalupe River Below San Marcos River

Segment boundary revisions.	
Segment number	Segment name
0220	Upper Pease/North Fork Pease River
0501	Sabine River Tidal
0503	Sabine River Above Caney Creek
0608	Village Creek
0610	Sam Rayburn Reservoir
0823	Lewisville Lake
0839	Elm Fork Trinity River below Ray Roberts Lake
1013	Buffalo Bayou Tidal
1107	Chocolate Bayou Tidal
1108	Chocolate Bayou Above Tidal
1242	Brazos River Above Navasota River
1245	Upper Oyster Creek
1803	Guadalupe River Below San Marcos
2003	Aransas River Tidal
2004	Aransas River Above Tidal

Boundary description revisions due to clarification or clerical errors in the 1997 TX WQS	
Segment number	Segment name
0832	Lake Weatherford
0836	Richland-Chambers Reservoir
1202	Brazos River Below Navasota River
1501	Tres Palacios Creek Tidal
1502	Tres Palacios Creek Above Tidal
1804	Guadalupe River Below Comal River
1814	Upper San Marcos River
2202	Arroyo Colorado Above Tidal

**Appendix E- Site-specific Criteria**

Segment	Water body	TPDES*	Facility	Parameter	WER	Site-specific criteria
0404	Welsh Reservoir	01811	SWEPCO	aluminum	10	9,900 ug/l (acute) **
1236	Ft. Phantom Hill Reservoir	01422	West Texas Utilities Co.	aluminum	2.9	2,904 ug/l (acute) **

\* TPDES - Texas Pollutant Discharge Elimination System

\*\* Site-specific criterion applies to entire water body