



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

MAR 17 2010

Ms. L'Oreal W. Stepney, P.E., Deputy Director  
Office of Water (MC-158)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Dear Ms. Stepney:

We appreciate the opportunity to provide preliminary feedback on the proposed draft "Procedures to Implement the Texas Surface Water Quality Standards" (IPs), while those procedures are still under public review and comment. We also appreciate the opportunity to review the proposed draft water quality standards revisions, and comments specific to those revisions are being transmitted under separate cover. Regrettably, the proposed IPs leave us with several significant broad areas of concern regarding the Texas Pollutant Discharge Elimination System (TPDES) permitting program.

**Whole Effluent Toxicity (WET)** – As noted in previous correspondence, the proposed revisions to the IPs are insufficient to protect aquatic life in receiving waters, and hence are not acceptable for purposes of issuing wastewater permits under the National Pollutant Discharge Elimination System (NPDES). We continue to find the IPs lacking an acceptable methodology for assessing reasonable potential (RP), and inadequate in their commitment to properly address toxicity (especially the need for sublethal WET limits.) In addition, the IPs' omission of detailed and specific information as to how RP will be assessed denies the public for opportunity to comment on this important issue.

**Chlorine** – EPA is concerned that the draft IP revisions only require chlorine limits from minor domestic treatment facilities between 0.5 and 1 million gallons per day (MGD) that are new or that are increasing their discharge flows. As proposed, the draft IPs would apparently authorize most minor facilities to continue discharging potentially toxic levels of chlorine.

**Temporary Variances** – From our review of the "Texas Surface Water Quality Standards" (WQS) and IPs, there appear to be some points needing clarification with respect to temporary variances and timely implementation of permit limits.

**Nutrients** – While EPA acknowledges the steps taken by TCEQ to begin addressing nutrient concerns through the IPs, we believe such actions should not be limited to dischargers that are new or expanding. EPA also notes that the IPs' reference to potential effluent limits as low as 0.5 mg/l phosphorus may not be sufficiently

protective.

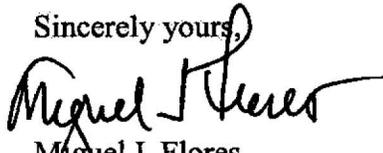
**Antidegradation** – Implementation of antidegradation policies via permitting is an emergent issue of national scope, and is the subject of ongoing discussions concerning potential regulatory changes. Region 6 notes that the draft IPs may not provide adequate guidance for permit writers to appropriately address antidegradation requirements in TPDES permits.

Additional comments on these issues are provided as an enclosure to this letter and my staff is committed to working with your staff to provide additional insights on our concerns.

While we believe our general comments, discussed in the enclosure and referenced above, encompass the major areas of our concern regarding the proposed draft IPs, we may provide additional informal comments, if necessary, prior to TCEQ's formal submittal to EPA requesting approval. Ultimately, EPA's oversight of TPDES permits will be based on the Clean Water Act, applicable federal regulations, the Memorandum of Agreement (MOA) between our agencies concerning the assumption of the National Pollutant Discharge Elimination System program authority, and the approved Texas Surface Water Quality Standards and IPs.

We stand ready to continue working with you and your staff for the protection of water resources in Texas. If you have any questions, please contact me (214) 665-7101 or have your staff contact Claudia Hosch at (214) 665-6464.

Sincerely yours,



Miguel I. Flores  
Director  
Water Quality Protection Division

Enclosure

cc: Charles W. Maguire, TCEQ  
Water Quality Division (MC 145)

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