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

NOV 22 2002

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

Dear Mr. Vickery:

The Environmental Protection Agency (EPA) has reviewed the latest version of the Texas Commission on Environmental Quality's (TCEQ) *Procedures to Implement the Texas Surface Water Quality Standards*, published in August 2002. We are conditionally approving this document with the exception of the following permitting issues.

Antidegradation - General Provisions (p. 24, last paragraph), Applicability to Specific Parameters (p. 25, "Listings based on narrative standards") & Procedures for Discharges to Listed Water Bodies (p. 25, third paragraph):

The provisions referenced above include language that is inconsistent with the federal regulations cited at 40 CFR §122.44(d) and 40 CFR §131.12. Limitations must control all pollutants that may be discharged at levels that will cause or contribute to an exceedance of state water quality standard. In addition, the antidegradation policy must be implemented so that the quality of waters necessary to support designated and presumed uses are maintained. Therefore, in these cases, controls (i.e., permit limitations) to prevent additional loadings from new and existing dischargers are required if the listed pollutant is present in the effluent.

TPDES Storm Water Permits - Discharges to Impaired Waters (p. 126):

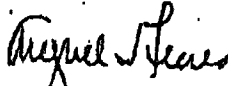
Under "Constituents of Concern," language in the first paragraph must be revised to read "...TMDL or TMDL implementation plan is only eligible..." to ensure compliance with federal regulations and to ensure that permits for reissuance or major amendments for existing dischargers include TMDL requirements. If a TMDL has been approved by EPA, permits must be issued in accordance with the TMDL, regardless of whether a separate implementation plan will be developed. Permits must establish controls where the discharge of pollutants have the reasonable potential to cause or contribute to the impairment of the waterbody. In addition, permits must also establish conditions to ensure consistency with the requirements of an approved water quality management plan approved by EPA, as cited in 40 CFR §122.44(d)(6).

Until they are resolved, EPA will address these issues on a permit-by-permit basis as it reviews and provides comments on permits drafted under the Texas Pollutant Discharge Elimination System in accordance with the Memorandum of Agreement and the federal regulation cited at 40 CFR §122.44(d).

As noted in comments on the previous versions, EPA has not completed its review of all new and revised provisions of the *Texas Surface Water Quality Standards (TX WQS)*. The use of the regression equation for determining critical low flow values in classified streams (page 10 of Implementation Procedures) will be reviewed with the TX WQS. Also, some portions in the Implementation Procedures, such as the processes for antidegradation review, may be included in EPA's consultation under the Endangered Species Act on the new and revised provisions of the TX WQS.

We thank you for your cooperation in this matter and look forward to working with you and your staff. Please feel free to call me at (214) 665-7101 or staff in the NPDES Permits Oversight Team of the Watershed Management Section if you have any questions.

Sincerely,



Miguel I. Flores
Director

Water Quality Protection Division (6WQ)

cc: Mike Cowan, Manager, TCEQ - Water Quality Division (MC-145)