



March 12, 2010

Mr. David Galindo
Water Quality Division MC 150
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

Re: Implementation Procedures, RG-194

Dear Mr. Galindo:

In 2008, our coalition of water quality organizations was formed specifically to respond to the water quality standards rulemaking and the revision of the Procedures to Implement the Texas Surface Water Quality Standards (Implementation Procedures). The coalition includes the Water Environment Association of Texas, the Texas Water Conservation Association, and the Texas Association of Clean Water Agencies. We formed this coalition because we believed that it would be more effective and helpful to the agency if the staff could hear one voice from permittees.

Three issues are of particular interest to the coalition:

- The need for a tiered approach to criteria for, and categories of, waters for recreation use;
- The development of numeric nutrient criteria; and
- The regulatory approach to whole effluent toxicity (WET) sub-lethal test results.

With respect to the recreational use and nutrient criteria, we believe that the implementation procedures represent a significant and positive step forward. We appreciate the staff's willingness to consider stakeholder input on these issues. Several suggestions for revisions to the proposed language for nutrient criteria are attached.

With respect to the sub-lethal WET issues, we are submitting detailed comments on this portion of the Implementation Procedures. We know the sub-lethal WET issue has been a difficult issue for staff to negotiate with EPA Region 6. We appreciate the staff's efforts to develop Implementation Procedures that are environmentally protective, achievable, and scientifically based. While we believe that most aspects of the proposed Implementation Procedures, as currently proposed, provide a viable approach, we continue to believe that there are still significant inconsistencies between the findings and capabilities of the science and the requirements of the regulatory program. Our coalition is available to continue to work with TCEQ staff and the EPA to find a reasonable approach to the regulatory program for sub-lethal effects. We believe that permittees should not be subject to undue burdens to comply with requirements that are not consistently achievable and have not been demonstrated to be

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necessary to protect the environment, especially during these difficult economic times. A sound regulatory program for sub-lethal WET must incorporate a valid determination of Reasonable Potential, meaningful permit language, and appropriate enforcement provisions.

Thank you for the opportunity to comment. Please feel free to contact me at 512-924-2102 or carol@weat.org if you have any questions or need any additional information.

Sincerely,



Carol Batterton
Executive Director
Water Environment Association of Texas

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