



WATER ENVIRONMENT ASSOCIATION OF TEXAS

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May 5, 2009

Ms. Karen Holligan (MC 150)
Ms. Sidne Tiemann (MC 234)
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711

Dear Ms. Holligan and Ms. Tiemann:

Thank you for the opportunity to provide additional comments on the Texas Commission on Environmental Quality's ("TCEQ") proposed nutrient criteria. The Water Environment Association of Texas ("WEAT") appreciates TCEQ's efforts to involve all stakeholders in this process, and we are pleased to provide comments on the materials and concepts presented at the April 27, 2009 stakeholder meeting. These comments are provided as a supplement to my letter of January 30, 2009 and are presented relative to the proposed Title 30 Texas Administrative Code Chapter 307, Water Quality Standards and Implementation Procedures.

Water Quality Standards

- WEAT supports the use of chlorophyll-a based criteria with use of total phosphorus as a confirming indicator.
- WEAT recommends that TCEQ recalculate all chlorophyll-a and related phosphorus values using data thru 2008. All questionable older data should be eliminated from consideration. Following recalculation, the data and results should be made available for review. After the above re-calculations are performed, statistical information in the implementation procedures ("IPs") will also need to be re-calculated.
- WEAT supports TCEQ's proposed data availability approach for setting the chlorophyll-a criteria. The available site-specific reservoir (chlorophyll-a and total phosphorus) data should be used in setting the criterion for each reservoir. The referenced water bodies approach is not appropriate for Texas.
- WEAT believes that TCEQ should continue with the application of standard parametric statistical analyses at this time. While there may be some advantages to the Texas Parks and Wildlife Department's suggested nonparametric approach, application of this

approach and evaluation of results has not been completed, reviewed, and accepted for inclusion in the proposed procedures.

Implementation Procedures

- WEAT suggests that TCEQ provide additional language in the IPs which would clarify TCEQ's expectations with regard to Tier II antidegradation review for nutrients. Recommended changes are as follows:
 - Revise the first sentence after the equation on page 44 to "This screening procedure is not applicable to dissolved oxygen, pH, temperature, or nutrients."
 - Revise 7th bullet under Examples Where Degradation is Unlikely to Occur as:

"Increased loading of total phosphorus, nitrate, or total nitrogen—if it can be reasonably demonstrated that detrimental increases to the growth of algae or aquatic vegetation will not occur. Such reasonable demonstration can be made if the discharge had been evaluated in the Nutrient Screening Procedures in earlier sections (reference) and either determined that a nutrient limit was not needed or that there was a need that had been incorporated into a proposed discharge permit."
- WEAT requests replacement of the words "evaluations indicate" with the phrase "application of the appropriate screening approach indicates" to clarify which evaluations are being referenced in the language at the bottom of page 3 (4/27/09 handout).
- WEAT requests additional clarification with respect to the inclusion and use of the revised regression equation presented by Larry Hauck on pp.10-11 of the handout entitled Nutrient Screening-Revised. WEAT questions the need to include this equation. If the equation is included, the coefficient of determination (R^2) value should be provided.
- It is appropriately stated (pages 3 and 18 of the 4/27/09 handout) that the "importance and weight of individual screening factors can vary from one site to another." Therefore, WEAT is concerned that the inclusion of a quantitative process for assessing the "weight-of-evidence" (as described on page 18) to determine the need for phosphorus limits, even if it is explicitly stated that its use is optional, could ultimately limit the Commission's ability to use balanced judgment in considering all relevant factors. An alternative approach may be justified to accommodate weighting the screening factors to address site-specific conditions. WEAT is evaluating alternative approaches and may provide recommendations at a later date.

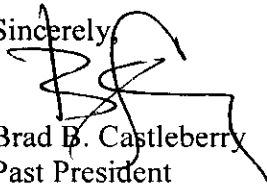
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- The IPs should allow for use of site or geographic area specific nutrient decay rates. In addition, varying substrate types and slopes will govern travel distances of effluent. Thus, evaluating a 0.25 million gallon per day facility ten miles away from a reservoir seems extreme in many parts of the state. These distances and related permitted flows should be reevaluated for screening potential effects on a reservoir. WEAT is evaluating alternative decay rates and may provide recommendations at a later date.
- Establishing technology-based permit limits for phosphorus is appropriate. WEAT supports this approach. The limits proposed are achievable based on currently available treatment technology. However, consistently maintaining the more stringent effluent limits may be challenging for smaller systems that may not have highly experienced operators. WEAT recommends changing the typical sizes of the facilities associated with the proposed permit limits as follows:

Permitted Flow (MGD)	Typical TP Limit (mg/L)
<1.0	1.0
1.0 to 5.0	1.0 to 0.5
>5.0	0.5

- WEAT supports the use of secchi depth, TSS, VSS, and other means to validate chlorophyll-a data and trends.
- There were a number of concerns expressed with the draft materials on Minimum Analytical Levels (Appendix E) supplied at the January meeting. WEAT requests that these concerns be addressed and communicated to stakeholders, before the next version is produced.

We would appreciate the opportunity to review any changes made as a result of comments received from the April 27 stakeholder meeting. Please feel free to contact Michael Bloom, Chair of WEAT's Watershed Management Committee, at 281-529-4202 if you have any questions or need any additional information.

Sincerely,

Brad B. Castleberry
Past President

BBC/ldp
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cc: Ms. Carol Batterton
Mr. Michael Bloom