



# WATER ENVIRONMENT ASSOCIATION OF TEXAS

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**To: Mr. Brad Castleberry**

*(512) 472-0532 fax*

**TCEQ Rule Project Number 2009-005-309-PR**

**From: Carol Batterton**

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WEAT ■ 2619 Jones Road, Suite C ■ Austin, Texas 78745 ■ 866-406-WEAT

June 6, 2009

Mr. Michael Parrish (MC 205)  
Texas Commission on Environmental Quality  
Office of Legal Services  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: **TCEQ Rule Project Number 2009-005-309-PR**

Dear Mr. Parrish:

This letter is submitted on behalf of the Water Environment Association of Texas ("WEAT") with respect to the above-referenced matter. Specifically, this letter is provided to submit comments on the proposed rule ("the Rule").

As you know, WEAT is a technical non-profit organization comprised of over 1800 members across the state of Texas that are experts in wastewater treatment, reuse, and general water quality matters. Our members represent every major utility in the State. Our mission is to promote sound science in environmental policy and regulation. Below is a summary of comments regarding the proposed Rule that have been raised by WEAT's membership.

1. Laboratory availability will be a challenge, particularly for smaller systems. Many commercial laboratories do not accept samples on the weekends without charging higher rates. Sampling frequencies need to be addressed to acknowledge laboratory working hours, similar to what is done with drinking water samples. It is our understanding that holding times were extended to 30 hours for drinking water microbiological testing to handle sample shipping issues, and that sampling frequencies were adjusted to Monday – Thursday to accommodate laboratory testing schedules. WEAT respectfully requests that the Rule include these considerations.

2. The fiscal note associated with the Rule does not correctly characterize laboratory costs. Even without the surcharge costs noted in Item No. 1, WEAT members

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have been quoted costs between \$30.00 and \$50.00 per sample, depending on the location of the utility with respect to the contract laboratory. Also, the initial cost to set up in-house sampling for the Colilert procedure has been quoted at \$6,300. None of these costs include training or hourly wages paid to utility staff to comply with new regulations.

3. Many facilities have not been designed to accommodate *E.coli* sampling after the final treatment unit. In order to collect uncontaminated samples, variances or other amendments to TPDES permits may need to be considered to ensure more functional sampling points.

4. WEAT has a number of smaller utility members that may struggle with the proposed rule. In particular, small systems with ponds may not have adequate contact time to meet the proposed *E.coli* limit. TCEQ needs to consider ways of implementing the proposed effluent limits in a manner that will allow permittees time to secure funds and construct any needed improvements before imposing mandatory effluent limits. It would serve no justice to begin an enforcement campaign against systems when they fail to meet a new permit condition imposed through a renewal process. Any associated fines would be better utilized constructing improvements to maintain permit compliance.

5. WEAT's members are concerned about wet weather events and potential noncompliance during same. Bacteria from runoff may impact permit compliance given the stringency of the proposed limits. WEAT requests consideration for alternative wet weather effluent limits, or in the alternative, enforcement discretion regarding same.

6. WEAT would like to reiterate its concerns regarding the correlation of fecal coliform performance with *E.coli* performance at certain wastewater treatment plants. On February 20, 2009, WEAT submitted a comment letter to Ms. Sherry Smith during the informal Rule development stage. Attached is a copy of that letter for reference. The letter includes a copy of a study that was performed to assess plant performance with respect to effluent concentrations of both fecal coliform and *E.coli*. The study demonstrates that there is not always a good correlation in plant performance. Given that very few of the wastewater treatment facilities in the State of Texas were designed to explicitly comply with an *E.coli* limit of 126 CFU/100mL, WEAT is concerned that individual plant performance will vary across the state and suggests that there should be a means to improve plant compliance if/when a problem is identified. In this regard,

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WEAT requests the Commission utilize enforcement discretion with utilities, as the industry only now will begin to produce performance data indicative of compliance with this new limit.

We trust these comments will be useful as you develop the final proposal for adoption. Should you have any questions regarding these comments, or the concerns noted herein, please feel free to call me or Brad Castleberry (512-322-5856) at your convenience.

Sincerely,



Carol V. Batterton  
Executive Director

cc: Brad Castleberry, Past President, WEAT