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

AUG 6 2008

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

Dear Mr. Eden:

The Environmental Protection Agency (EPA) has completed its review of several provisions in the *Texas Surface Water Quality Standards* (TX WQS). These standards were adopted by the Texas Natural Resource Conservation Commission, now the Texas Commission on Environmental Quality (TCEQ), on July 26, 2000, and submitted to the EPA for approval on September 27, 2000. I am pleased to inform you that the EPA is approving the provisions as documented in the enclosure to this letter, pursuant to sections 303(c) of the Clean Water Act (CWA) and the implementing regulation at 40 CFR Part 131. This action includes new and revised provisions in §307.6(b), (c) and (e) and in §307.8 of the TX WQS, as documented in the enclosure.

The EPA has previously stated that it takes no action on the revised definition of "surface water in the state" in the TX WQS, which includes an area extending 10.36 miles offshore into the Gulf of Mexico. Under the CWA, Texas does not have jurisdiction to regulate water standards more than three miles from the coast. Therefore, EPA's approval of the items in the enclosure recognizes the state's authority under the CWA to include waters extending offshore three miles in the Gulf of Mexico, but does not extend past that point. Beyond three miles, the EPA retains authority for CWA purposes. EPA is taking no action on the application of the TX WQS for the portions of the Red River and Lake Texoma that are located within the state of Oklahoma. Finally, the EPA is taking no action on the TX WQS for those waters or portions of waters located in Indian Country.

Section 7(a)(2) of the Endangered Species Act states that "all Federal agencies shall...utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered and threatened species" and "each Federal agency shall insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species." EPA has determined that approval of the provisions included in the enclosure will have no effect on federally-listed threatened and endangered species or on critical habitat.

The EPA has previously approved the human health provisions in the TX WQS; new and revised language in §307.2, §307.3, §307.4, §307.5, §307.7 and §307.9; the revised aquatic life criteria for saltwater in Table 1; revised minerals criteria and designation of the aquifer protection

use for numerous segments in Appendix A - Site-specific Uses and Criteria for Classified Segments; the revised standards for segment 0230 - Pease River in Appendix A; all new and revised provisions in Appendix C - Segment Descriptions and Appendix D - Site-specific Receiving Water Assessments; and, criteria based on water effects ratios for several segments in Appendix E - Site-specific Criteria. The EPA will take separate action on the remaining new and revised parts in §307.6(c) and Appendix E of the TX WQS.

I would like to commend the TCEQ staff for its commitment in completing the task of reviewing and revising the state's water quality standards. If you have any questions or concerns, please contact me at (214) 665-7101, or have your staff contact Diane Evans at (214) 665-6677.

Sincerely,

Miguel I. Flores
Director
Water Quality Protection Division

Enclosure

cc: Jim Davenport, TCEQ - Water Quality Assessment Section (MC-150)

## §307.6 Toxic Materials

Table 1 – Criteria in Water for Specific Toxic Materials. Freshwater criteria for the following pollutants were revised by rounding:

| Parameter | CASRN | Freshwater Acute Criteria (ug/l) | Freshwater Chronic Criteria (ug/l) |
|---|---|---|---|
| Chlordane | 57-74-9 | | 0.004 |
| Cyanide | 57-12-5 | 45.8 | 10.7 |
| Dieldrin | 60-57-1 | | 0.002 |
| Endrin | 72-20-8 | | 0.002 |
| Heptachlor | 76-44-8 | | 0.004 |

§307.6(c)(6) and §307.6(e)(1). Language was added to the toxicity provisions to clarify the level of protection previously established in §307.8(b)(2) of the TX WQS.

§307.6(e)(2)(C). A requirement for EPA approval of alternate procedures for toxicity tests was added to this provision.

Additional editorial changes in §307.6(b) and §307.6(e), which don't alter the meaning or implementation of the WQS, were made.

## §307.8. Application of Standards

§307.8(a)(2). Language was added to the toxicity provisions to clarify the level of protection previously established in §307.8(b)(2) of the TX WQS.

§307.8(b)(5). References to state and federal permitting authorities were added to this provision.

§307.8(e). A narrative provision for maintaining existing and designated uses in waters affected by storm water discharges was added to the TX WQS

Additional editorial changes in §307.8, which don't alter the meaning or implementation of the WQS, were made.