



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

March 18, 2021

Earl Lott, Deputy Director
Office of Water (MC-158)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Mr. Lott:

The Environmental Protection Agency (EPA or the Agency) has completed its review of several new and revised provisions in the 2018 Texas Surface Water Quality Standards. These standards were adopted by the Texas Commission on Environmental Quality (TCEQ) on February 7, 2018 and received by the EPA for review under section 303(c) of the Clean Water Act on March 29, 2018.

This is the fifth EPA action concerning our Clean Water Act review of the 2018 standards and includes action on new and revised provisions in §307.2 and Appendix D of the Texas Surface Water Quality Standards, as specified in the enclosure. Pursuant to Clean Water Act section 303(c) and the implementing regulation at 40 CFR part 131, the EPA is approving these provisions. Section 7(a)(2) of the Endangered Species Act requires that all federal agencies engage in consultation to ensure their actions are not likely to jeopardize the continued existence of any threatened or endangered species or result in adverse modification of designated critical habitat. EPA has determined that approval of these revisions in §307.2 and Appendix D of the Texas Surface Water Quality Standards will have no effect on federally listed threatened and endangered species or on critical habitat.

In response to the TCEQ's letter dated October 6, 2020, EPA is taking no action on revisions adopted in Appendix A and Appendix C of the 2018 Texas Surface Water Quality Standards for segment 1902 - Lower Cibolo Creek, segment 1908 - Upper Cibolo Creek and segment 1913 - Middle Cibolo Creek. The TCEQ has stated that it will review additional data for this water body, for consideration in future triennial revisions of the Texas Surface Water Quality Standards. The previously approved standards for segments 1902, 1908 and 1913 in Appendix A and Appendix C of the 2014 Texas Surface Water Quality Standards remain effective for Clean Water Act purposes.

The EPA will take subsequent action on the remaining new and revised provisions in the 2018 Texas Surface Water Quality Standards. The EPA is also reviewing the remaining provisions in the 2010 and 2014 Texas Surface Water Quality Standards submittals. 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,

Charles Maguire

Charles W. Maguire
Director
Water Division

Enclosure

cc: Lori Hamilton, Director
TCEQ - Water Quality Planning Division (MC-203)

EPA Review of Texas’ 2018 Submittal of Revisions to *Texas Surface Water Quality Standards* under Section 303(c) of the Clean Water Act (March 2021)

On March 29, 2018, the Texas Commission on Environmental Quality (TCEQ) submitted to the Environmental Protection Agency (EPA) for review under section 303(c) of the Clean Water Act (CWA) revisions to the *Texas Surface Water Quality Standards* (TSWQS) adopted by TCEQ on February 7, 2018. The EPA has taken previous actions on portions of the 2018 TSWQS, by letters dated November 2, 2018; May 24, 2019; January 6, 2020; and, July 16, 2020.

§307.2. Description of Standards

EPA approves the following revisions under §307.2(g). Temporary standards:

- modification under §307.2(g) to allow a temporary standard where a designated use is not attained due to one or more factor under 40 CFR 131.10(g), and to allow temporary standards in order to facilitate restoration or reconfiguration activities;
- revision of “criterion” to temporary standard” in several paragraphs of subsection (g);
- revision to allow temporary standards for water bodies or an individual permittee;
- clarification that a temporary standard may only be used for developing effluent limitations for wastewater permits, and for issuing water quality certification under CWA section 401;
- addition of language to require the revaluation of a temporary standard at least every five years, through the permitting process or a revision of the TSWQS; and,
- clarification that the term of the temporary standard is a period of time from the date of EPA approval or a specific date cited in the TSWQS, and that a temporary standard can be renewed where justified through a revision of the TSWQS.

EPA notes that any temporary standard must comply with all provisions of the federal water quality standards variance regulation at 40 CFR 131.14. Temporary standards become effective for CWA purposes upon EPA approval rather than upon adoption. EPA supports revisions to §307.2(g) of the TSWQS in the upcoming triennial review to provide consistency between §307.2(g) and 40 CFR 131.14, as well as additional options for implementation of this provision.

Appendix D – Site-specific Uses and Criteria for Unclassified Water Bodies

EPA approves the revised aquatic life uses, dissolved oxygen (DO) criteria, and water body descriptions, as described in the following table.

Segment	Water Body	County	Aquatic Life Use	DO criteria (average, minimum)	Description
0202	Bois d’Arc Creek	Fannin	High	5.0 mg/L; 3.0 mg/L	Intermittent stream with perennial pools from the confluence with Sandy Creek near Davy Crockett Lake upstream to the confluence with Sandy Creek north of the City of Dodd City

Segment	Water Body	County	Aquatic Life Use	DO criteria (average, minimum)	Description
0202	Bois d' Arc Creek	Fannin	Intermediate [no revision]	4.0 mg/L; 3.0 mg/L [no revision]	Intermittent stream with perennial pools from the confluence with Sandy Creek north of the City of Dodd City upstream to the confluence with Pace Creek
1803	Elm Creek	Gonzales, Karnes, Wilson	Intermediate	3.0 mg/L; 2.0 mg/L	Perennial stream from the confluence with Sandies Creek in Gonzales County upstream to the headwaters in Wilson County
1803	Sandies Creek	DeWitt, Gonzales, Guadalupe	Intermediate	3.0 mg/L; 2.0 mg/L	Perennial stream from the confluence with Guadalupe River in DeWitt County upstream to the headwaters in Guadalupe County

The revisions for Elm Creek and Sandies Creek are consistent with the federal regulation at 40 CFR 131.10(g)(2), which states: “Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met.” Although the segment descriptions for two reaches of Bois d’ Arc Creek were revised in the 2018 TSWQS, the aquatic life uses and associated DO criteria were not revised from the presumed or previously-approved standards, and justification based on 40 CFR 131.10(g) is not required.