

WESTCAS

2013 Fall Conference

October 30 – November 1, 2013

State Reports



“The Voice of Water Quality in the Arid West”

WESTCAS STATE REPORT

STATE: Arizona

NAME OF PRESENTER: Jim Kudlinski, Salt River Project

DATE: October 30, 2013

Arizona 2013 Monsoon Drops Drought

Arizona's summer monsoon season provided enough localized rainfall to reduce drought conditions across 30% of the state. According to images provided by the U.S. Drought Monitor, by the end of the monsoon season (June 15 to September 30) all extreme and exceptional drought areas were eliminated from the state (see Attachment A at the end of State Reports).

Unfortunately, the end of the monsoon season also begins a period of dry weather that typically extends through the end of the calendar year.

Navajo Generating Station Better than BART Proposal

On February 5, 2013, the U.S. Environmental Protection Agency (EPA) issued a proposed Best Available Retrofit Technology (BART) rule for the Navajo Generating Station (NGS). EPA's proposal would require the installation and operation of Selective Catalytic Reduction (SCR) on all three units of NGS by 2018 to reduce nitrogen oxide (NOx) emissions. EPA also proposed an alternative that would give the NGS owners credit for early installation of Low-NOx Burners (LNB) at NGS, and allow SCRs to be installed on one unit per year between 2021 and 2023.

In response, NGS assembled a Technical Work Group (TWG) consisting of stakeholders with different viewpoints to develop alternative proposals to reduce NOx emissions that would exceed EPA's proposed requirements. The TWG stakeholder group consisted of representatives from the Central Arizona Water Conservation District, the Environmental Defense Fund, the Gila River Indian Community, the Navajo Nation, Salt River Project, the U.S. Department of the Interior, and Western Resource Advocates.

On July 26, 2013, the TWG submitted their "better" than BART proposal to EPA which included two alternatives:

1. Alternative A would require the NGS participants to shut down one Unit by January 1, 2020 and delay installation of SCR (or an equivalent technology) on the two remaining operating Units by 2030.
2. Alternative B would allow all three Units to remain operating, but would require a reduction of NOx emissions equivalent to the shutdown of one unit from 2020-2030.

On September 25, 2013, EPA issued a Proposed Supplemental Rule for NGS that is responsive to the TWG BART proposal. The Proposed Supplemental Rule is open to public comment until January 6, 2014. In the interim, EPA is planning to hold several public hearings on the Proposed Supplemental Rule.

Santa Cruise River Willingness to Pay Survey

On May 8, 2013, EPA public noticed their proposal to issue a willingness to pay survey instrument in an attempt to establish public values for two proposed scenarios of change for two effluent dominated reaches of the Santa Cruise River. The "South" reach, which starts at a treated effluent outfall in Rio Rico, AZ and flows northward through Tumacácori National Historical Park, and the "North" reach, which is fed by two treated effluent outfalls in northwest Tucson, Arizona, and flows northwest through Marana, AZ, is the focus of the survey. For the South and North reaches, two different scenarios of change are proposed. The first is a reduction in flow length and associated decreases in cottonwood-willow riparian forest--a rare forest type for the region. The second is an increase in water quality to allow full contact recreation, such as submersion, at normal flow levels.

A total of 500 respondents, in the Phoenix and Tucson metropolitan areas, are proposed to receive the survey.

Only one public comment was submitted to EPA. WESTCAS member Pima County Wastewater Reclamation Department requested EPA to:

1. Replace several photos on the survey cover page and modify key sections of the narrative to more neutrally portray the current and future situations expected along the Santa Cruz as increasing diversions and beneficial reuse of treated effluent will ultimately impact the future length and amount of riparian habitat available for recreation.
2. Include cost data on the amount of money Pima County has spent to date (over \$650 million) to improve the quality effluent discharged to the Santa Cruz River and its positive impact in protecting human health and the environment.
3. Clarify that monetary choice points used in the survey were not actual dollars to be spent on future projects, but are only benchmarks used to determine the relative strengths of each option given.
4. Revise the survey narrative to clarify that any money spent to achieve the stated goals would be spent to purchase treated effluent to ensure a minimal base flow is maintained in the Santa Cruz River.

EPA forwarded the Survey to OMB on September 25, 2013, for review and approval.

Petitions for Clean Water Act Residual Designation Authority

On July 10, 2013, the environmental groups American Rivers, Conservation Law Foundation, Natural Resources Defense Council and California Coastkeeper Alliance filed petitions with EPA Regions 1, 3 and 9 claiming that stormwater discharges from unpermitted industrial sites pollute surface waters. The petitioners are claiming that the Clean Water Act (CWA) and its implementing regulations provide Regional Administrators with the authority to identify and require non-permitted industrial facilities to obtain permits if their stormwater discharges are contributing to a violation of a water quality standard. The petitioners claim that in Region 9 over 485 specific water body segments are impaired by pollutants contained in stormwater, i.e., lead, copper, zinc, sediment, COD/BOD, phosphorus and/or nitrogen. If EPA Region 9 agrees with the petitioners and determines that non-permitted industrial dischargers are contributing to the impairment of water bodies, those industrial facilities could be required to obtain NPDES stormwater discharge permits. In Arizona, where ADEQ has primacy over the NPDES permit program, non-permitted industrial facilities that have more than 2 acres of impervious surfaces may be required to obtain NPDES permits. EPA has 90 days to respond to the petition and issue a public notice for comment.

Impaired Waters

EPA approved ADEQ's 2010 303(d) list of impaired waters list in June 2013.

ADEQ reportedly has already prepared a draft of a combined 2012/2014 impaired waters list, which includes water quality data for the period from July 2006 through June 2011. It is expected that the draft will be released for public comment in early to late fall 2013. It is unclear if ADEQ has revised its listing methodology guidance in response to comments received from stakeholders during the review process on the 2010 list. Three entities (i.e., BHP, Carlota Copper Company, and Franciscan Friars of California) appealed listing of Pinto Creek as impaired for copper on the basis that the listing violated the natural background language in A.R.S. § 49-232(D).

WESTCAS STATE REPORT

STATE: California

NAME OF PRESENTER: Jolene Walsh for Sara Toyoda, State Coordinator

DATE: October, 2013

Precipitation

September 30th marked the end of the 2013 California Water Year. California hydrologic conditions were as follows: precipitation, 80 percent of average; runoff, 60 percent of average and reservoir storage, 80 percent of average for the date. The 2013 water year started strong with record wet conditions in November and December 2012, the start of the Water Year. However by the end of the year 2013 was recorded as a dry. The 2012 Water year was also recorded as a dry year (Department of Water Resources, 2013).

Regulations

Chromium 6

California has proposed the nation's first drinking water standard for chromium 6. The proposed regulation sets the maximum contaminate level at 10 parts per billion. The public comment period ended on October 11, 2013 (California Department of Public Health, 2013). The announcement opened a barrage of comments both for and against the regulation, especially in areas such as the Coachella Valley in Riverside County. According to the Desert Sun (2013), the Coachella Valley Water District explained that their costs for compliance would be over \$200 million. This would mean that the average customer monthly service charge could go from \$7 per month to over \$50 per month. The Riverside County Supervisors unanimously supported a resolution to raise concerns about the new standard and request that the standard be delayed and further studied.

Fracking

Governor Jerry Brown has signed California's first fracking legislation. The legislation creates notification requirements for oil and gas well operators using hydraulic fracturing and acid well stimulation techniques. These operators must also obtain permits before fracking procedures can be done. Violations of the new law can be enforced with fines ranging from \$10,000 to \$25,000. (Mehlinger, 2013)

State Revolving Funds

California was declared out of compliance with the federal Safe Drinking Water Act because of \$455 million in state revolving funds that has not been spent. In June, the California Department of Public Health responded with a letter and corrective action plan. The plan highlights five key areas of improvement and includes a scope of work which including timelines. (California Department of Public Health, 2013)

Legislative

Water Bond

A California Water bond for 11.14 billion dollars is still scheduled for the November 2014 ballot but it is still being negotiated. Polls are showing little support for the bond due to the high price. Assembly Member Henry T. Perea spoke about renegotiating the bond to a lower amount that would have a better chance of passing. (Moore, 2013) In response, new versions of the bond are currently being advocated. These bond range anywhere from \$5 billion and higher.

NPDES - Receiving Water Limitations language

California NPDES permits currently have 2 clauses for receiving water limitations, "Permittee discharges shall not cause or contribute to violation of Water Quality Standards." Then there is a separate clause which establishes the iterative process. It was the 9th Circuit Court's opinion that the first line shall be enforced separately from the second. This meant that a municipality was immediately liable and open to litigation for an exceedance. The U.S. Supreme Court disagreed with this ruling and remanded the case back to the Ninth Circuit. The Ninth Circuit court took a fresh look at the case and concluded that municipalities are liable and open to litigation for any exceedance in Water Quality Standards even if the cause of the exceedance cannot be traced back to an MS4 discharge. In light of the new ruling, MS4 permittees and other stakeholders are on overdrive to find solutions to the receiving water language. *NRDC v. County of LA* (9th Cir. 2011) 673 F.3d 880.

Bay Delta Conservation Plan Update (BDCP)

The Sacramento-San Joaquin Delta is a vital link in California's water system. Water diversions directly from the delta supply drinking water for 25 million people. The Bay Delta Conservation Plan Update is a 50 year ecosystem-based plan. (Bay Delta Conservation Plan, 2013). The plan is nearing completion, however, the California Department of Water Resources will delay the release scheduled for mid-November to mid-December. The delay is caused by the Federal Government shutdown. The federal agencies that have to review the environmental documents were not able to during the shutdown (Quinton, 2013).

Water Challenges/Local Environmental Issues

Wildfires and Drought

This year California suffered the state's third largest wildfire, deemed the Rim Fire. The fire burned over 257,000 acres. According to Kramer (2013), the Rim Fire was one of 30 fires blazing at that time across the U.S. The causes are a combination of higher temperatures, untamed underbrush, less rain, and more developments. If California continues to experience dry water years, wildfires will be a continuing challenge.

WESTCAS STATE REPORT

STATE: Colorado

NAME OF PRESENTER: Mary E. Gardner

DATE: October, 2013

Colorado has experienced a devastating year of several major fires during the summer and a 100 year flood in late September. Fires ravaged many parts of Colorado but the two largest and most devastating were the Black Forrest and the Royal Gorge. Over 500 homes, two deaths, 48 structures at the Royal Gorge; many of them historical and evacuation of the prison were part of the disasters. These fires came after the previous summer's major fires which now leave people stranded anytime it rains due to overwhelming mud slides.

Even though Colorado citizens have prayed for rain since the horrific drought in 2012 the rains that started on September 11 did not stop until 4-5 days later. This was no longer the "much needed" moisture it was the 100 year flood. Across the state, the floods killed at least eight people and damaged or destroyed as many as 2,000 homes. It also washed out hundreds of miles of roads and left many small mountain towns completely cut off. The floods caused damage across nearly 2,000 square miles. The flooding isolated towns and wiped out water and wastewater services. Much of the flooding started in the mountain and foothill areas by-passing the metro area until the 14th when a huge hail storm showered down backing up storm drains causing new lakes to develop and bringing carp swimming into Aurora resident's front yards. By Sunday the 15th the water had pushed its way out to the plains and farm lands thus causing more damage and devastation.

These areas have been declared disaster areas. There is no speculating at this point how long it will take to repair/rebuild the infrastructure.

Public Trust Issue

Public Trust Doctrine and what's at Stake (taken from the Colorado Water Congress website)

The public trust doctrine is the principle that certain resources are preserved for public use, and that the government is required to maintain them for the public's reasonable use.

Over the past two decades, activists have sought to pass ballot initiatives imposing a public trust doctrine on water in Colorado. The doctrine would subordinate existing agricultural, commercial and municipal rights in water to a new, undefined public use. It would require state agencies and courts to reconsider and even transfer water rights to these new undefined uses. This would destabilize municipal, recreational, environmental and agricultural water supplies by destroying the predictability of established water rights, requiring enormous costs to replace water supplies and raising questions of state liability for taking vested property rights.

The public trust doctrine is inconsistent with the Colorado Constitution, existing state laws and over 150 years of Colorado case law and water allocation. The Colorado Water Congress opposes public trust initiatives on the grounds they are unwise, unnecessary, expensive and disruptive to the fair and responsible allocation and stewardship of Colorado's water resources.

Colorado Water Quality Monitoring Council/Monitoring Framework

In the fall of 2012, the Monitoring Council (http://www.coloradowaterquality.org/outreach_reg85) added the **Monitoring Framework** group to address the monitoring requirements brought about by the nutrient regulations; 31 and 85. The Monitoring Framework was established to help develop sampling and analysis plans (SAP) and to assist in gathering data for facilities that will be required to treat for nutrients. **The data from these efforts will be used to better characterize nutrient sources, characterize nutrient conditions and effects around the state and to help inform future regulatory decisions regarding nutrients. The Framework provided webinars to stakeholders describing sampling techniques and coordinated efforts with other users.**

The Framework group is now involved in other actions such as providing data information and trends to the Water Quality Control Commission during Basin hearings.

Regulatory

Work groups currently formed or soon to begin are:

- Discharger Specific Variance
- Drinking Water and Wastewater Nexus
- Sediment
- Permit Issues

WESTCAS STATE REPORT

STATE: Nevada

PREPARED BY: Brenda Pohlmann

DATE: October, 2013

Water Projects:

Lake Mead is the source of approximately 90% of Southern Nevada's water supply. For nearly 15 years, this resource has been severely impacted by a prolonged period of drought. Projections indicate that if the drought continues, Lake Mead water levels will drop an additional 60 feet from the current elevation of 1,104' above MSL by the spring of 2016. Once the level reaches the 1,050' level, the Southern Nevada Water Authority's (SNWA) Intake 1 and the City of Henderson's water intakes will become inoperable. SNWA's Intake 2 can operate to a depth of approximately 1,000' MSL. SNWA is continuing construction of a third intake structure to draw raw water from Lake Mead at a depth of 860' MSL. This project is currently behind schedule and is anticipated to be completed in early 2015.

In addition to water supply concerns, the lowering of the lake levels also provides additional water quality challenges for the City of Henderson and SNWA. The Las Vegas Wash discharges into Lake Mead carrying with it treated wastewater effluent, urban runoff and a small amount of groundwater that surfaces into the wash. This lower quality water tends to float on the surface of the lake in a zone referred to as the epilimnion throughout most of the year. When the drinking water intakes draw water from greater depths, the water is drawn from a zone beneath the epilimnion and is generally of higher quality and lower temperature. As the water levels drop, the intakes will eventually be drawing water directly out of the epilimnion. As a result, the raw water is expected to contain higher concentrations of contaminants.

Water Rates:

In early 2012, SNWA convened a stakeholder committee to provide input on issues including water resources, facilities, water quality, and funding. The committee, known as the Integrated Resources Planning Advisory Committee (IRPAC), presented its funding recommendations to the SNWA Board on September 26th to raise water rates. The increase for most single family residences will be \$0.64/month for their infrastructure charge and \$0.04/1,000 gallons for their commodity charge. As a result, the monthly SNWA increase for an average household using 15,000 gallons/month will be \$1.24 starting in January 2014.

WESTCAS STATE REPORT

STATE: New Mexico

NAME OF PRESENTER: Kelly Collins for Joshua Rosenblatt, NM State Coordinator

DATE: October, 2013

Greetings from New Mexico Land of Enchantment

Hot off the press to begin, the NM Judiciary has received word that following the restart of the Federal Government by passing the financing debt limits was so abhorrent, that the State of Texas is forgoing bothering with interstate law suits and has secedence from the Union is eminent. Yes they really, *really*, mean it this time. We look forward to an update from the representa...err...emissary? from Texas.

The New Mexico Municipal League, NMML, held its annual meeting in Taos at the end of August. The Water Quality Association was treated to a self-introduction of the New Secretary of the Environment Department, Ryan Flynn, who was previously Legal Counsel for the Environment Department. Secretary Flynn framed organizational values in terms of collaboration and seeking input from all stakeholders and not that of enforcement. The Secretary Identified priorities included:

- The fuel spill response on the response to the Kirtland Air Force Base fuel spill threatening ground water supplies of Albuquerque. NM Environment has established deadlines for Air Force interim measures in:
 - expanded soil vapor extraction operations;
 - design and implement Light Non Aqueous Phase Liquid (LNAPL);
 - design and implement interim Ethylene Dibromide (EDB).

All these efforts are still however identified as interim until a more permanent remedial program is implemented under RCRA.

- Persistent Drought. The drought has impacted to varying degrees the entire state and is a principle driver of more collaborative planning policy and priority reevaluations in the quantity quality polarity may be slowly coming to terms with each other.
 - The OSE has a task force presenting water rights and exploring new water banking and transfers opportunities.
 - A recent resolution passed and designated with high priority by the New Mexico Leagues Policy Committee was submitted to Legislative review recommending the Governor to create a broader policy and strategic response water task force to participate at the cabinet level.
 - A number of case study and pilot evaluations recognizing needs and prioritization of putting reclaimed water, desalination, produced water from mining, stormwater, opportunities as well as alternative sustainable agriculture practices are advancing. These issues were all addressed recently during the infrastructure conference held recently in a presentation by Mike Hightower who is a lead researcher in the Water Energy Nexus initiatives at Sandia Labs. With this comes the task force task in addressing and modifying legislative, regulatory and political barriers to current hurdles to advance the adaptive response prerogative.

Watershed Based Stormwater Management Pilot. You may recall the Middle Rio Grande was one of 3 pilot locations to craft a watershed based stormwater management plan. Identified in the plan were some 20 existing permittees.

Current Updates:

A Draft permit has been issued and comment period opened. Comments from the Mayor of Corrales, who is challenging the EPA stated that there is clear contribution within the watershed from agricultural and pueblos which are exempt, yet more so fundamentally it is an unfunded federal mandate upon local governments. Additional hurdles to be overcome is the advancement of Low Impact Development standards still conflicting with OSE retention and detention western and NM state laws. These are some of the issues facing the aforementioned task forces to reevaluate. WESTCAS provided comments on the draft permit developed at our last meeting.

Nutrient Management Task Force:

The Joint Municipal League and New Mexico Environment Department Nutrient Task Force's objective is to provide a 20-year delay in the application of ecoregion nutrient criteria in NPDES Permits for POTWs. The Water Quality Control Commission will be asked to adopt changes to the NM Water Quality Management Plan that will allow for technology-based criteria limits over the 20 year period before the imposition of ecoregion criteria.

Joshua regrets not being present and concludes his State of New Mexico report with two quotes from Winston Churchill:

First, the ever popular: ***“If you’re going through Hell, Keep Going.”***

Second, the less quoted yet a useful tool for the membership to have in their pocket during colorful exchanges: ***“If you have ten thousand regulations you destroy all respect for the law.”***

WESTCAS STATE REPORT

STATE: Texas

NAME OF PRESENTER: Peggy Glass, Ph.D.

DATE: October, 2013

There seem to be two perennial issues in Texas--water shortages and water quality standards. Following is a brief overview of the status of both. The attachment to this report provides more detail.

WATER QUANTITY

On October 3, 2013, the Governor of Texas issued a proclamation stating that exceptional drought conditions pose a threat of imminent disaster to 240 of the state's 254 counties. On October 1, 2013, approximately 95% of the state was in some stage of drought. The reservoirs in Central, West, and South Texas, as well as the Upper Panhandle, were at 40% or less of capacity.

As reported at the June WESTCAS meeting, the 2013 Texas Legislature approved the creation of a \$2 billion loan fund for projects related to water supply. The money for this program can be provided from a reserve fund commonly referred to as the "Rainy Day Fund," if Texas voters approve this in an election in November. Texas water suppliers are working hard to explain to the voters the importance of their approval. There is also public support from some of the environmental groups because of a provision that sets aside 20% of the funds for conservation and reuse projects.

In the Texas water rights system, water rights are awarded based on seniority (referred to as "first in time, first in right" or the "Doctrine of Prior Appropriation"). Holders of "senior" water rights can make a priority call, which requires the Texas Commission on Environmental Quality (TCEQ) to place restrictions on upstream water rights holders with "junior" rights. Because of the drought, some senior water rights holders have made priority calls. The current regulatory response has been to honor the call but with exemptions for municipalities and power generation utilities with junior rights. This has resulted in legal challenges from senior water rights holders claiming the TCEQ actions amount to a "taking" of their property (i.e., their water right). The legal challenges have not been resolved yet.

TEXAS WATER QUALITY STANDARDS

Recent actions with respect to water quality standards in Texas can be summarized as follows. In 2010 the State adopted major revisions to the Texas Surface Water Quality Standards and the implementing procedures document. In 2012 the State issued a revised implementing procedures document; the primary differences from the 2010 version were in the sections discussing Whole Effluent Toxicity (WET) implementation and dechlorination requirements at small wastewater treatment plants (between 0.5 and 1.0 million gallons per day). In 2013 the State issued the draft triennial revisions to the Texas Surface Water Quality Standards. There are still some proposed revisions to site-specific criteria for temperature and dissolved minerals criteria in the 2010 standards that have been neither approved nor disapproved by EPA.

Following are overviews of the current status in Texas of nutrient standards for reservoirs, the WET program, and the revisions to the Texas Surface Water Quality Standards being proposed in 2013. The attachment to this report provides additional detail on the 2013 standards revisions, the proposed approach to the development of nutrient criteria for streams and estuaries, and the use of recreational use attainability analyses.

Nutrient Criteria for Reservoirs

The 2010 standards revisions included the adoption of nutrient criteria for 75 reservoirs in the form of chlorophyll-a criteria. The U.S. Environmental Protection Agency Region 6 (EPA) subsequently disapproved 36 of the proposed criteria as being insufficiently protective.

Whole Effluent Toxicity

Texas has still not come to an agreement with EPA regarding how the WET program will be implemented with respect to the determination of Reasonable Potential (RP), the test endpoint for regulatory purposes, or the form of the permit limit. The status of each is presented below.

Reasonable Potential

The EPA comments on the 2010 implementing procedures included a statement that the description regarding how RP would be determined for WET was too general. In the revised implementation procedures that the State issued in 2012, a detailed description of how RP would be determined was provided. While more nuanced than the following summary indicates, and with some flexibility, the 2012 screening method would typically produce the following results:

- One failure would not result in a WET limit.
- Two failures would seldom result in a WET limit.
Three failures would frequently result in a limit.
- Four failures would result in a limit.

EPA concluded this approach was too specific. There is still no agreement on what constitutes RP. Whether or not permittees with 2 or more WET failures (lethal or sublethal) receive a WET limit in their permit is a subject of negotiation.

Permit Limits

The Texas WET Coalition (comprised of the Texas Association of Clean Water Agencies, the NACWA affiliate; Water Environment Association of Texas, the Water Environment Federation affiliate; Texas Water Conservation Association, the National Water Resources Association affiliate; and Texas Section American Water Works Association, the American Water Works Association affiliate) is encouraging the Texas Commission on Environmental Quality (TCEQ) to revise WET permit provisions as follows:

Replace the No Observed Effect Concentration (NOEC) endpoint with the 25% Inhibition Concentration (IC₂₅) endpoint.

Replace the single test result permit limit with a limit based on a median permit limit (3-month median for lethal, and 6-month median for sublethal).

The TCEQ is prepared to change the endpoint to IC₂₅ and believes EPA will approve. While TCEQ believes a median permit limit is appropriate, they are not sure EPA will approve it. A permit with an IC₂₅ and/or median limit has not yet been submitted to EPA to formally determine their response.

2013 Revision of Water Quality Standards

Texas has issued their draft water quality standards triennial revision. It proposes limited changes. The changes primarily incorporate site-specific standards and revised standards for specific water bodies that have been developed since the 2010 standards were adopted. In addition, the following changes are included:

- The 36 reservoirs for which nutrient criteria were disapproved by EPA have been deleted from the list of reservoirs with nutrient criteria.

- An additional recreational use category and associated bacteriological criteria have been proposed. The new category, Primary Contact Recreation 2, applies to waters used for primary contact recreation, but where the recreational use is less frequent than the recreational use of waters in the Primary Contact Recreation 1 category due to the physical characteristics of the water body or limited public access.

The respective *E. coli* criteria for freshwater bodies for Primary Contact Recreation 1 and Primary Contact Recreation 2 are as follows:

	Geometric Mean <u>(per 100 ml)</u>	Single Sample <u>(per 100 ml)</u>
Primary Contact Recreation 1	126	399
Primary Contact Recreation 2	206	—

- New provisions have been proposed regarding industrial cooling water areas.
- Since the State could not reach agreement with EPA on an appropriate fish tissue criteria for mercury, all criteria (including mercury) that were based on fish tissue have been converted to criteria based on concentrations in water.

ATTACHMENT

SUMMARY OF WATER QUALITY STANDARDS PROGRAM ACTIVITIES

Excerpts from the Texas Commission on Environmental Quality Website

Revising the Texas Surface Water Quality Standards

- [Revision Process](#)
- [2014 Revision: Proposed Language and Public Comment Submission](#)

Revision Process

The process to revise the Texas Surface Water Quality Standards (Standards) includes the public and is usually conducted at least every three years. Revisions address new information about pollutants, additional data about water quality conditions in specific segments, and new state and federal regulatory requirements.

Stakeholders in the review and revision process include the TCEQ, EPA, the general public, other governmental agencies, industries, municipalities, environmental groups, and others. Much of the coordination is done through the [Surface Water Quality Standards Advisory Workgroup](#). There have been revisions to the Standards in 1967, 1973, 1981, 1984, 1988, 1995, 1997, 2000, and 2010.

The [Procedures to Implement the Texas Surface Water Quality Standards](#) (RG-194) (Implementation Procedures), which explain how the Standards are used in wastewater permitting, are reviewed and revised along with the Standards.

2014 Revision: Proposed Language and Public Comment Submission

For the next triennial review, staff is considering a variety of possible changes. Revisions were developed by internal staff workgroups and the [Surface Water Quality Standards Advisory Workgroup](#).

Proposed Language for the 2014 Revision of the Texas Surface Water Quality Standards

Copies of the [proposed rulemaking](#) and the [public hearing notice](#) can be obtained from the commission's [Rule Proposal Web site](#).

In addition to changes discussed with stakeholders at work group meetings, the TCEQ is seeking comment on the proposed revisions to add the following:

1. A second category of primary contact recreation (primary contact recreation 2).
 - Proposed revisions are shown in Sections §307.3, §307.4, and §307.7. Further details describing the proposals are also discussed in the preamble's section by section discussion.
 - Primary contact recreation 2 would only be designated for a water body after a Recreational Use Attainability Analysis and a site-specific amendment to the Texas Surface Water Quality Standards.
 - As part of this proposal, the term "primary contact recreation" would change to primary contact recreation 1 throughout §307.
2. Addition of a definition for industrial cooling water areas.
 - Revisions include clarification regarding the allowance of different mixing zone sizes for specific types of numeric criteria.
 - Specific portions of the rule edited to address industrial cooling water areas and mixing zones include §307.3(a)(32), §307.4(f), and §307.8(b)(10). Further details describing the proposals are also discussed in the preamble's section by section discussion.

The TCEQ will continue to update its website with information regarding the rule proposal and adoption process. Please feel free to forward this message to others you feel may be interested in this rule revision.

See our Web page "[News from the Texas TMDL Program](#)" for links to further details.

Public Comment Period

The Texas Commission on Environmental Quality (TCEQ) Commissioners granted permission to publically propose revisions to the Standards during the August 21, 2013 agenda, and the proposed rule language was published in the September 13, 2013 edition of the [Texas Register](#). The public comment period began the week of August 25th and will end on October 24, 2013. **Written comments must be submitted no later than midnight, October 24, 2013.**

Written comments on the proposed revisions to 30 TAC Chapter 307 may be submitted to Michael Parrish, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. File size restrictions may, and all comments should reference Rule Project Number 2012-001-307-OW. For further information, please contact Debbie Miller, Rule Coordinator, Water Quality Planning Division, at (512) 239-1703.

Public Hearing

The commission will hold a public hearing on this proposal in Austin on October 17, 2013 at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Target Adoption Date

The target agenda date for adoption of the Texas Surface Water Quality Standards is February 12, 2014. If adopted, the final rule will then be published again in the Texas Register and become effective in March 2014. The adopted rule will then be sent to EPA for review and approval for Clean Water Act purposes.

http://www.tceq.texas.gov/assets/public/legal/rules/rule_lib/proposals/12001307_pro.pdf

Nutrient Criteria Development

- [Background](#)
- [Nutrient Criteria Development Plan](#)
- [Status Update](#)

Background

Historically, the State of Texas and most other states have not had numerical criteria for nutrients in their surface water quality standards. In Texas, nutrient controls have taken the form of narrative criteria, watershed rules, and antidegradation considerations in permitting actions. TCEQ screens phosphorus, nitrate nitrogen, and chlorophyll monitoring data as a preliminary indication of areas of possible concern for the [biennial integrated report on water quality in Texas water bodies](#).

Numerical nutrient criteria are a potentially useful addition to the water quality standards, and TCEQ has been developing these criteria in coordination with an advisory workgroup and other public participation. In addition, EPA has mandated that states incorporate numerical nutrient criteria in their water quality standards. In June 2010, TCEQ adopted new numerical nutrient criteria for 75 reservoirs based on chlorophyll a concentrations and these new criteria were submitted to EPA for review. Also in June 2010, TCEQ completed [new procedures](#) to evaluate and control potential nutrient impacts from proposed wastewater discharge permits.

TCEQ is now conducting additional studies and evaluations to develop potential numerical nutrient criteria for selected streams, rivers, and estuaries in Texas. Numerical criteria for these other types of water bodies will also be developed and considered with extensive public participation.

Nutrient Criteria Development Plan

On November 27, 2006, the TCEQ sent a revised and expanded version of the "Nutrient Criteria Development Work Plan for the State of Texas," dated November 3, 2006, ([PDF](#) | [MS Word](#)) to EPA. (Help [Downloading Files](#).) The plan is currently being updated to reflect progress towards nutrient criteria development. Information on the plan revisions and versions are available on the Nutrient Criteria Development Advisory Work Group webpage. Once completed, the plan will be submitted to the EPA by the TCEQ. The current draft of the [Plan](#) ([PDF](#)) reflects comments received during the public comment period that ended June 22, 2012.

Status Update

On June 30, 2010, the Commission adopted numerical nutrient criteria for 75 reservoirs. The water bodies are listed in §307.10 (Appendix F) of the [2010 Standards](#). In addition, the Commission approved screening procedures for nutrients in the revised [Procedures to Implement the Texas Surface Water Quality Standards](#).

Recreational Use Attainability Analyses

- [UAAs: What They Are and How They Are Used](#)
- [Recreational Uses](#)
- [RUAA Procedures](#)

UAAs: What They Are and How They Are Used

The TCEQ uses a watershed-based approach to address water quality. This approach supports integration of various state water quality programs by providing a framework and a mechanism for coordination among water quality management agencies, stakeholders, and the public. As part of this approach, it is essential to develop meaningful, yet attainable, water quality standards.

A use-attainability analysis (UAA) is one of the tools the TCEQ uses to implement its watershed-based approach. A UAA reevaluates designated or presumed uses if there is reason to believe the standards for a water body are inappropriate due to local conditions. A UAA is a scientific assessment of the physical, chemical, and biological characteristics of a water body.

RUAA's

An RUAA is a specific type of UAA that is conducted to evaluate and determine what category of recreational use is appropriate for a particular water body. RUAA's are typically site-specific studies that assess reasonably attainable recreational uses that can occur based on the physical and flow characteristics of a stream – such as water depth and persistence of flow. Supporting information also includes surveys of individuals and organizations with firsthand knowledge of water body, in order to assess historical and existing patterns of recreational use.

Recreational Uses

Texas protects the quality of the state's surface waters to ensure that they are safe for various levels of recreational uses. Previous Texas Surface Water Quality Standards considered only two recreational use categories—contact and noncontact recreation. Contact recreation was designated or presumed for virtually all surface water bodies in the state. However, there are many water bodies in the state that do not have sufficient depth or other characteristics that support primary contact recreation.

In 2010, the commission adopted changes to the Texas Surface Water Quality Standards that added two new levels of recreational use. The standards, as adopted, include four categories of recreational uses that can be assigned to individual streams:

- **Primary Contact Recreation**
Activities that are presumed to involve a significant risk of ingestion of water (e.g., wading by children, swimming, water skiing, diving, tubing, surfing, and the following whitewater activities: kayaking, canoeing, and rafting).

- **Secondary Contact Recreation 1**

Activities that commonly occur but have limited body contact incidental to shoreline activity (e.g., wading by adults, fishing, canoeing, kayaking, rafting and motor boating). These activities are presumed to pose a less significant risk of water ingestion than primary contact recreation but more than secondary contact recreation 2.

- **Secondary Contact Recreation 2**

Activities with limited body contact incidental to shoreline activity (e.g. fishing, canoeing, kayaking, rafting and motor boating) that are presumed to pose a less significant risk of water ingestion than secondary contact recreation 1. These activities occur less frequently than secondary contact recreation 1 due to physical characteristics of the water body or limited public access.

- **Noncontact Recreation**

Activities that do not involve a significant risk of water ingestion, such as those with limited body contact incidental to shoreline activity, including birding, hiking, and biking. Noncontact recreation use may also be assigned where primary and secondary contact recreation activities should not occur because of unsafe conditions, such as ship and barge traffic.

The TCEQ will be conducting numerous RUAs over the next several years to determine the most appropriate recreational use category for rivers and streams.

RUA Procedures

- [Procedures for a Comprehensive RUA and a Basic RUA Survey](#) (PDF, February 2012)
- [Procedures for a Comprehensive RUA and a Basic RUA Survey](#) (PDF, May 2009)