

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 10, 2008

Mr. Lawrence E. Starfield  
Deputy Regional Administrator  
United States Environmental Protection Agency  
Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

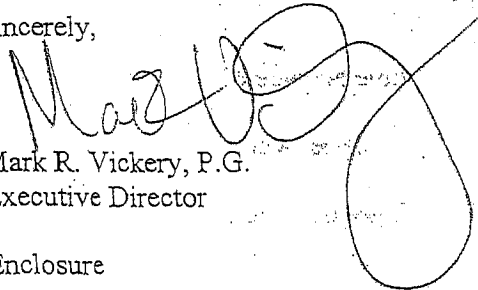
Re: Bacteria Effluent Limitations and Monitoring in Permits

Dear Mr. Starfield:

During the video conference held on January 25, 2008, and a follow-up conference call on April 15, 2008, representatives of the United States Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ) discussed an interim approach to resolve how limits and monitoring requirements for bacteria would be addressed in domestic wastewater permits issued under the Texas Pollutant Discharge Elimination System (TPDES). Since the spring of 2007, EPA has raised concerns regarding TCEQ draft permits for domestic dischargers that use chlorine for disinfection, but do not contain water quality based effluent limitations and monitoring requirements for bacteria.

I am enclosing TCEQ's approach to resolving EPA's concerns on an interim and long-term basis that will allow us to proceed with the issuance of permits on a timely basis. Please call me at 512-239-5105 to discuss if you have any questions.

Sincerely,

  
Mark R. Vickery, P.G.  
Executive Director

Enclosure

## TCEQ Plan to Address Bacteria Limits in TPDES Permits

### Interim Approach:

1. TCEQ will use this Interim Approach on all TPDES domestic wastewater draft permits for which Notice of Application and Preliminary Decision is provided between July 1, 2008, and December 31, 2009, as well as permits for which EPA has issued "conditional no objection" letters.

2. Bacteria limits and monitoring will be included in permits for domestic dischargers that discharge to water bodies listed as impaired for bacteria on the latest EPA approved Clean Water Act (CWA) 303(d) list for Texas which meet at least one of the following criteria:

- a. The effluent sample for bacteria that is submitted with the application exceeds 100 col./100 ml.
- b. The application is for a new discharge or for an amendment to increase permitted flow.
- c. The facility discharges to waters used for oyster harvest.
- d. The facility discharges to a segment covered by a TCEQ and EPA approved TMDL for bacteria.

3. Larger domestic dischargers, [i.e., those with discharges greater than or equal to 5 million gallons per day (MGD)], that discharge to water bodies listed as impaired for bacteria on the latest EPA approved Clean Water Act (CWA) 303(d) list for Texas will be required to monitor for bacteria. Monitoring conditions for the interim period will be instituted at the frequencies indicated below when permits are issued for the following discharge flow categories:

- $\geq 50$  MGD                      5 times per week
- $\geq 20$  MGD < 50 MGD        3 times per week
- $\geq 5$  MGD < 20 MGD        1 time per week
- < 5 MGD                         No bacteria monitoring required

The monitoring frequencies required for facilities in number 2 above will be the same as above with a minimum of 1 time per week for facilities that meet the criteria in number 2, except that for facilities meeting condition 2.a above, the sampling frequency will be as follows (based on sampling results expressed as colonies per 100 ml for the appropriate indicator):

- Between 100 and geometric mean (gmean)                      1 time per week
- > gmean but < Single Sample Maximum                      3 times per week
- Greater than Single Sample Maximum                      5 times per week

4. Bacteria limits and/or monitoring requirements in each permit will be effective when the permit goes into effect.

5. Bacteria limits and/or monitoring will be for the applicable indicator bacteria as provided by the numeric criteria established in 30 TAC 307.7 of the Texas Surface Water Quality Standards (2000) in the initial receiving water of each discharge -- *E. coli* for discharges to freshwater and enterococci for discharges to saltwater (including discharges to oyster waters). TCEQ may issue permits that require

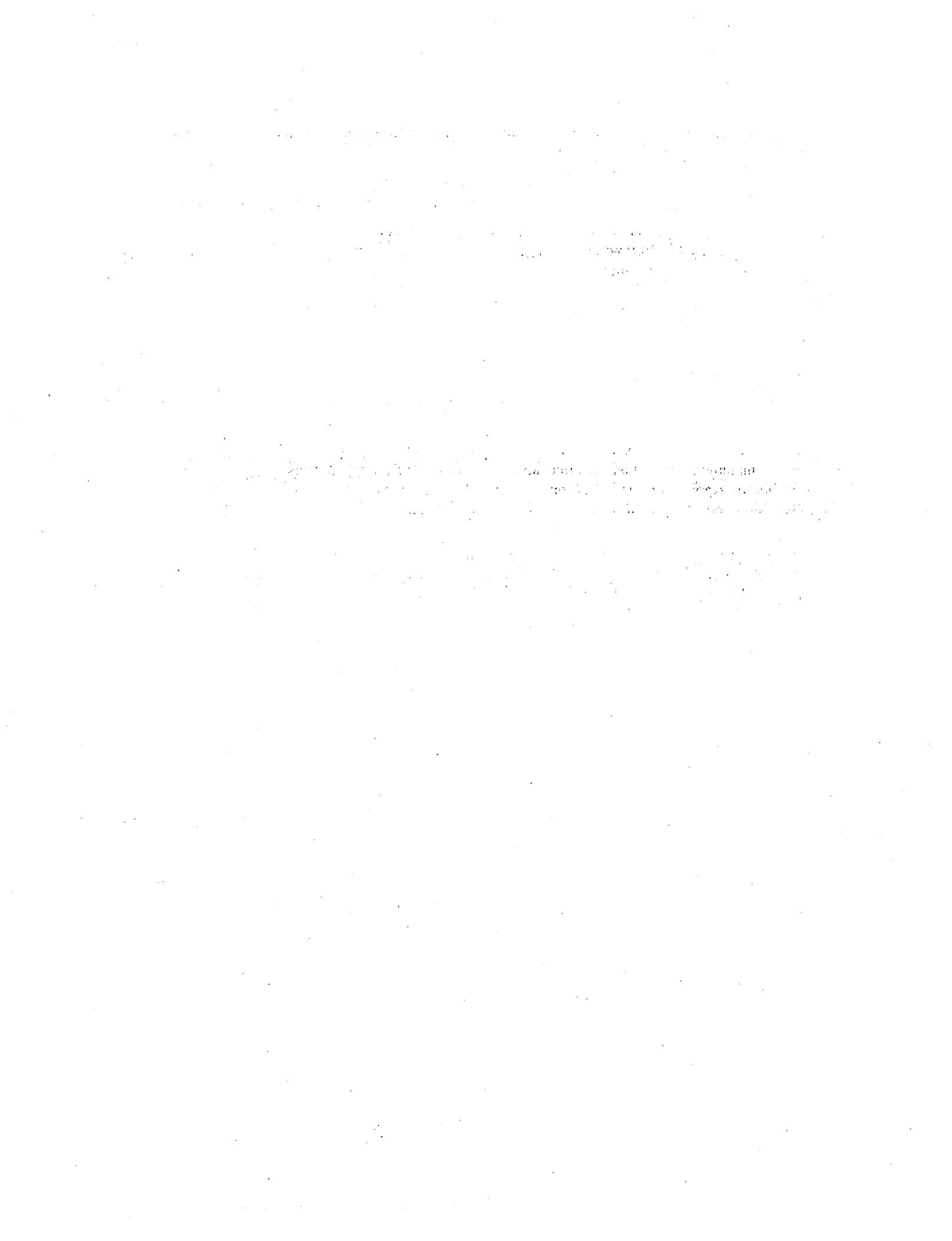
monitoring for fecal coliform for the first six months of the permit if needed to allow time to begin testing of *E. coli* or enterococci.

6. TCEQ will include the following language in all permits for domestic discharges:

"The permittee is hereby placed on notice that the Executive Director of the Texas Commission on Environmental Quality (TCEQ) will be initiating rulemaking and/or changes to procedural documents that may result in bacteria effluent limits and monitoring requirements for this facility.

**Long-Term Resolution:**

1. The Executive Director will present a rule proposal to the Commission by July 1, 2009, to revise the state rules and/or procedural documents to include effluent limitations and representative monitoring for bacteria in all TCEQ domestic wastewater permits. Any adopted rule will be effective by December 31, 2009.
2. If the TCEQ adopts revisions to its rules regarding effluent limitations and monitoring for bacteria, TCEQ will implement the revisions cited above in all TPDES domestic wastewater draft permits for which Notice of Application and Preliminary Decision is provided on or after January 1, 2010. New requirements will be effective when the permit goes into effect.
3. TCEQ recognizes that if revisions are not finalized by December 31, 2009, EPA will object to domestic wastewater permits proposed by TCEQ after January 1, 2010, that do not include effluent limitations and representative monitoring requirements for bacteria to meet the State Water Quality Standards.





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

*Re: Dan Edén file*

JUL 21 2008

Mr. Mark R. Vickery, P.G.  
Executive Director  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Dear Mr. Vickery:

Thank you for your July 10, 2008, letter addressing our agencies' shared interest in safeguarding Texas water bodies against bacteria. We believe the Texas Commission on Environmental Quality's (TCEQ) interim and long-term strategies for incorporating bacteria effluent limits and monitoring in permits reflect a commitment to enhancing water quality in the State. We look forward to working closely with you to implement the plan described in your letter.

In the next few days, Miguel Flores, Director, Water Quality Protection Division, will provide Dan Eden a more detailed response to the State's plan. If you have questions or concerns after reviewing our follow-up response, please do not hesitate to contact me at (214) 665-2125.

Sincerely yours,

*Lawrence E. Starfield*

Lawrence E. Starfield  
Deputy Regional Administrator

cc: Mr. Dan Eden, Deputy Director  
Office of Permitting, Remediation & Registration  
Texas Commission on Environmental Quality

