

The Texas Commission on Environmental Quality (commission or TCEQ) proposes the amendment of §319.9 and the repeal of §319.10.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The TCEQ typically includes chlorine exposure time and residual concentration requirements as the bacteria control mechanism for disinfection by chlorination in Texas Pollutant Discharge Elimination System (TPDES) domestic discharge permits. Starting in February 2007, the United States Environmental Protection Agency (EPA) took a new position that bacteria limits are required. This resulted in the EPA objecting to a subset of the commission's draft permits. As a result, the commission could not issue approximately 100 permits during this time. The executive director and EPA reached an agreement in July 2008 regarding bacteria effluent limitations and monitoring requirements in TPDES domestic wastewater permits. The agreement included an interim approach to require bacteria limitations and/or monitoring for selected facilities that met certain criteria for discharges to bacteria impaired water bodies. The agreement also included a long term approach in which the commission would propose rulemaking to establish requirements for bacteria limitations in all TPDES domestic wastewater permits. Conditions in the agreement stated that an adopted rule must be effective by December 31, 2009, and all TPDES domestic wastewater draft permits for which Notice of Application and Preliminary Decision is published on or after January 1, 2010 will have the new requirements as part of the permit language or EPA objections would begin again. The purpose of this rulemaking is to satisfy the agreement with the EPA.

The frequency of effluent parameter measurements is addressed in Chapter 319. Different frequencies of measuring bacteria are required based on both the amount of wastewater permitted for discharge and the disinfection method. Larger flows are given more frequent measurement requirements than small flows because of the amount of potential harm to human health and the environment are proportionate to the

pollutant loadings from the amount of wastewater discharged from a treatment facility.

Frequencies also vary with the disinfection method. Because facilities with chlorine disinfection systems have chlorine contact time and concentrations as another method to evaluate disinfection, those facilities are assigned a proportionately less frequent measurement schedule than facilities that use ultraviolet light, natural attenuation, or a chemical system other than chlorine. The natural attenuation, or pond, systems were given a more frequent measurement schedule than chlorine systems, but less frequent than other chemical systems or ultraviolet light systems. Although there is no other method to measure disinfection with these systems, their treatment levels change slowly. Ultraviolet light and other chemical systems are given the highest frequency of measurement because they are subject to equipment failure, and therefore, a lack of disinfection in a short time span.

SECTION BY SECTION DISCUSSION

Proposed §319.9 includes proposed Table 2, located in proposed §319.9(b), and renumbers the current Table 2, located in existing §319.9(b) and Table 3, located in existing §319.9(c), as Table 3, located in proposed §319.9(c) and Table 4, located in proposed §319.9(d). Table 1, located in §319.9(a), is the *Frequency of Measurement* for domestic discharges. It includes measurement frequencies for flow, biochemical oxygen demand, total suspended solids, chlorine residual, and pH. The proposed Table 2, located in proposed §319.9(b), is the *Frequency of Measurement of Bacteria* for domestic discharges, the amended Table 3, located in proposed §319.9(c), is the *Frequency of Measurement* for nondomestic discharges, and the amended Table 4, located in proposed §319.9(d), is the *Required Quality Control Analyses*. For better organization and easier reading, proposed Table 2 was inserted after Table 1 rather than added after Table 4 to keep the domestic discharge tables together.

The rulemaking proposes to repeal §319.10. Bacteria limits will replace and supersede this requirement. It is being removed to simplify the rule.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency as a result of administration or enforcement of the proposed rules. The agency will have to modify operational practices and record data regarding bacteria present in domestic wastewater discharges but will use current resources to implement the proposed rules. Other units of state or local governments will experience fiscal implications as a result of the proposed rules since they will be required to test for bacteria present in domestic wastewater discharges. However, any fiscal implications to other units of state or local governments are not expected to be significant.

The proposed rules are part of a rulemaking that modifies 30 TAC Chapters 210, 309, and 319 to implement an agreement between the executive director and the EPA to include bacteria effluent limitations and monitoring requirements in TPDES domestic wastewater discharge permits. This fiscal note estimates the fiscal impact caused by the proposed changes in Chapter 319 and is closely related to proposed changes in Chapter 309 since fiscal impacts are a function of both frequency of testing and indicator bacteria levels. Fiscal impacts for Chapter 210 can be found in a separate fiscal note.

The agency estimates that there are 2,011 TPDES domestic facilities statewide. An estimated 1,395 of these are governmental entities that include state agencies, municipalities, counties, river authorities, and utility districts. The agency issues or renews TPDES domestic permits for a five-year period, and approximately 20% of these permits, or 402 statewide, are renewed annually. Of the 402 permits renewed

annually, approximately 279 will be issued to governmental entities each year and 123 will be issued to private facilities.

Some governmental entities will see testing costs increase because the proposed rules require bacteria testing not previously required. The impact of cost increases depend on many factors including the proposed frequency of testing in this chapter, whether or not an outside contractor is utilized to obtain bacteria count, the size of the wastewater system, and whether or not bacteria measurement costs can be recouped through increased user fees. However, the proposed rules for Chapter 319 and related rules proposed for Chapters 309 and 210 are not expected to have a significant fiscal impact on governmental entities because of the testing options available to comply with the rule requirements.

Testing for bacteria also involves sampling costs, transportation costs, and staff training costs. These costs vary greatly among both contractors and entities that choose to verify bacteria limits in-house. The fiscal impact of these costs will depend on the unique operating environment of each entity and methods chosen to train staff, obtain samples, and transport samples for laboratory analysis.

Total estimated annual average costs for laboratory analysis for *Escherchia coli* (*E. coli*) if done by a contract laboratory can be found in the following table, which shows the relationship between testing frequency proposed in Chapter 319 and effluent limitations proposed in changes to Chapter 309.

	Tests/Year	Cost/Year Contract Lab	Tests/Year	Cost/Year Contract Lab	Tests/Year	Cost/Year Contract Lab
Flow (mgd)	Chlorine Systems	E. coli test \$51.50 (average cost)	UV System & Other Chemical Systems	Cost Increase for E. coli test \$51.50 - \$41.20 (average cost)	Natural Systems	E. coli test \$51.50 (average cost)
>10	260	\$13,390.00	365	\$3,759.50	365	\$18,797.50

5--10	156	\$8,034.00	365	\$3,759.50	260	\$13,390.00
1—5	52	\$2,678.00	365	\$3,759.50	156	\$8,034.00
0.5—1.0	24	\$1,236.00	365	\$3,759.50	52	\$2,678.00
0.1—0.5	12	\$618.00	260	\$2,678.00	24	\$1,236.00
<0.1	4	\$206.00	260	\$2,678.00	12	\$618.00

If governmental entities decide to do laboratory analysis in-house, they will incur initial costs for equipment purchases, for staff training, and for supplies, but those costs are expected to be lower than using a contractor to analyze bacteria counts. Staff has estimated that one time equipment costs for laboratory analysis would be approximately \$1,500, and analysis costs would be approximately \$6 per test if done in-house.

PUBLIC BENEFITS AND COSTS

Nina Chamness also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be a more direct measure of the effectiveness of disinfection processes at domestic wastewater facilities discharging into state waters and compliance with EPA requirements to retain delegation of the TPDES domestic wastewater permit program.

TPDES domestic permits are held by different business types statewide. These can include investor-owned utilities, resorts, apartment complexes, camps, campgrounds, motels, hotels, and recreational vehicle parks. Staff estimates that there may be as many as 15 large businesses that have TPDES domestic wastewater permits. The largest have a discharge rate of 1.0 million gallons per day (mgd) to 5.0 mgd. If a contractor is used to do laboratory analysis, these businesses could see their costs increase by as much as \$2,678 per year if they have chlorine systems and contractors are used. If they have an ultraviolet light

or other chemical disinfection system, they could pay approximately 20% more (an estimated \$3,760 increase per year) for *E. coli* laboratory analysis instead of fecal coliform by a contractor. If a natural disinfection system is used, these businesses could see contract laboratory analysis costs increase by as much as \$8,034 per year. If testing is done in-house, costs are expected to be lower and one time equipment costs for laboratory analysis would be approximately \$1,500, and analysis costs would be approximately \$6.00 per test.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

Adverse fiscal implications are anticipated for some small or micro-businesses as a result of the proposed rules. Small businesses can be expected to incur the same costs as those incurred by governmental entities. The following table summarizes the annual estimated laboratory analysis costs if a contractor is used.

	Tests/Year	Cost/Year Contract Lab	Tests/Year	Cost/Year Contract Lab	Tests/Year	Cost/Year Contract Lab
Flow (mgd)	Chlorine Systems	E. coli test \$51.50 (average cost)	UV Systems & Other Chemical Systems	Cost Increase for E. coli test \$51.50 - \$41.20 (average cost)	Natural Systems	E. coli test \$51.50 (average cost)
>10	260	\$13,390.00	365	\$3,759.50	365	\$18,797.50
5--10	156	\$8,034.00	365	\$3,759.50	260	\$13,390.00
1—5	52	\$2,678.00	365	\$3,759.50	156	\$8,034.00
0.5—1.0	24	\$1,236.00	365	\$3,759.50	52	\$2,678.00
0.1—0.5	12	\$618.00	260	\$2,678.00	24	\$1,236.00
<0.1	4	\$206.00	260	\$2,678.00	12	\$618.00

Small systems are required to test less frequently than larger systems, and 98% of private wastewater treatment facilities (601 facilities) have a permitted flow under 0.5 mgd. If testing is done in-house, costs are expected to be lower and one time equipment costs for laboratory analysis would be approximately \$1,500 and analysis costs would be approximately \$6.00 per test.

However, many of these small or micro-businesses rely on contractors for laboratory analyses. The significance of the fiscal impact of the proposed rules depends on whether the small or micro-business can absorb the cost increases associated with bacteria testing or whether the customer base of the small business can absorb fee increases to cover increased costs for bacteria testing.

SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required to protect the environment and to comply with EPA requirements requiring bacteria limits in TPDES domestic wastewater permits.

Small businesses with TPDES permits, 98% of which have a permitted flow under 0.5 mgd, are given flexibility under the proposed rules in the sense that they are allowed to test for bacteria less frequently than large businesses or large governmental entities. However, to retain federal delegation of the TPDES program, the commission is required to implement EPA requirements regarding bacteria limits in all TPDES domestic wastewater permits and more flexibility cannot be given.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225,

because it does not meet the criteria for a "major environmental rule" as identified in that statute. Major environmental rule is defined as a rule, the specific intent of which, is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal does not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The specific intent of this portion of the proposed rulemaking is to establish frequency requirements for bacteria monitoring in all TPDES domestic wastewater permits. The proposed rulemaking modifies the state rules and/or procedural documents to include bacteria effluent limitations and monitoring frequencies in all TPDES domestic wastewater permits.

Furthermore, the rulemaking is not subject to Texas Government Code, §2001.0225 because it does not meet any of the four applicable requirements specified in §2001.0225(a). Texas Government Code, §2001.0225(a) applies only to a state agency's adoption of a major environmental rule that: 1) exceeds a standard set by federal law, unless state law specifically requires the rule; 2) exceeds an express requirement of state law, unless federal law specifically requires the rule; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) is adopted solely under the general powers of the agency instead of under a specific state law.

The commission invites public comment regarding this draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

TAKINGS IMPACT ASSESSMENT

The commission evaluated the proposed rulemaking and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the proposed rulemaking is to modify the Texas Administrative Code to reflect bacteria effluent limitations and monitoring in all TPDES domestic wastewater permits, as mandated by the EPA. This rulemaking substantially advances that stated purpose by modifying 30 TAC §§210.33, 309.3, 319.9, and 319.10.

Promulgation and enforcement of the proposed rules will not be a statutory or constitutional taking of private real property. Specifically, the proposed rulemaking does not apply to or affect any landowner's rights in private real property because it does not burden (constitutionally), restrict, or limit any landowner's right to real property or reduce any property value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These actions will not affect private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 *et seq.*, and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance with Coastal Coordination Act Implementation Rules, 31 TAC §505.22 and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

CMP goals applicable to the proposed rules include the protection, preservation, restoration, and enhancement of the diversity, quality, quantity, functions, and values of coastal natural resource areas and

ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone.

CMP policies applicable to the proposed rules include 31 TAC §501.21(b)(1) and (2), which state that discharges shall comply with water quality-based effluent limits and that discharges that increase pollutant loadings to coastal waters shall not impair designated uses of coastal waters and shall not significantly degrade coastal water quality unless necessary for important economic or social development.

These rules would adopt bacteria limits for all domestic wastewater facilities that discharge into waters in the state. By adopting bacteria limits, there will be a more direct and possibly more accurate measure of the level of disinfection achieved in domestic effluent discharged to both fresh and salt water in the areas of concern to the CMP.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the proposed rules are consistent with those CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal in Austin on June 30, 2009, 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.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Michael Parrish, Office of Legal Services at (512) 239-2548. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments 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. Electronic comments may be submitted at: <http://www5.tceq.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2009-005-309-PR. The comment period closes July 6, 2009. Copies of the proposed rulemaking can be obtained from the commission's Web site at http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information, please contact Sherry Smith, Water Quality Division, (512) 239-0571.

SUBCHAPTER A: MONITORING AND REPORTING SYSTEM

§319.9

STATUTORY AUTHORITY

The amendment is proposed under the Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission. TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority provided by TWC. TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the code and other laws of the state. TWC, §5.104, which states that the commission, by rule, will develop memoranda of understanding necessary to clarify and provide for its respective duties, responsibilities, or functions on any matter under the jurisdiction of the commission that is not expressly assigned to the commission. TWC, §5.105, which authorizes the commission to adopt rules and policies necessary to carry out its responsibilities as provided by the TWC. TWC, §5.120, which requires the commission to "administer the law so as to promote the judicious use and maximum conservation and protection" of the environment and natural resources of the state. TWC, §26.011, which provides the commission with the authority to establish the level of quality to be maintained in, and to control the quality of, the water in the state. TWC, §26.013, which authorizes the executive director to conduct or have conducted any research and investigations it considers advisable and necessary for the discharge of the duties under Chapter 26 of the TWC. TWC, §26.027, which authorizes the TCEQ to issue permits for the discharge of waste or pollutants into or adjacent to water in the state.

The amendment is also proposed under the Texas Water Quality Control Act which gives the TCEQ the authority to adopt rules for the approval of disposal system plans under TWC, §26.034, as well as the authority to set standards to prevent the discharge of waste that is injurious to the public health under

TWC, §26.041.

This proposed amendment implements TWC, §§5.013, 5.102, 5.103, 5.104, 5.105, 5.120, 26.011, 26.013, 26.027, 26.034, and 26.041.

§319.9. Self-Monitoring and Quality Assurance Schedules.

(a) The following table sets forth the self-monitoring schedules applicable to treated domestic sewage effluent.

Figure: 30 TAC §319.9(a)

[Figure: 30 TAC §319.9(a)]

Table 1 FREQUENCY OF MEASUREMENT						
Design Capacity MGD	Flow	BOD5	Total Suspended Solids	Chlorine Residual	pH	Collecting of Samples and Taking Measurements
0 to less than 0.10	One instantaneous measurement each working day but not less than five measurements per week (b) (c)	One each week	One each week	One each working day but not less than five measurements per week (c)	One each month	The laboratory tests shall be made on a grab sample collected at peak loading periods, and flow measurements shall be taken concurrently with such grab samples. (d)
0.50 less than 0.10 to	One instantaneous measurement each working day but not less than five measurements per week (b) (c)	One each week	One each week	One each working day but not less than five measurements per week (c)	One each month	The laboratory tests shall be made on a grab sample collected at peak loading periods, and flow measurements shall be taken concurrently with such grab samples. (d)

0.50 to less than 1.00	The daily flow measured by a totalizing meter	One each week	One each week	One each day of the week	Two each month	The laboratory test excepting the pH and chlorine residual test which are performed on grab samples or insitu shall be made on a composite sample proportioned according to flow, made up of three portions collected no closer together than 2 hours and with the first sample collected no earlier than 10:00 a.m.
1.00 to less than 5.00	The daily flow measured by a totalizing meter	Two each week	Two each week	One each day of the week	One each week	The laboratory test excepting the pH and chlorine residual test which are performed on grab sample or insitu shall be made on a composite sample proportioned according to flow, made up of six portions collected no closer together than 2 hours and with the first sample collected no earlier than 10:00 a.m.
5.00 to less than 10.00	The daily flow measured by a totalizing meter	One each weekday (a)	One each weekday (a)	One each day of the week	One each week-day	The laboratory test excepting the pH and chlorine residual test which are performed on grab samples or insitu shall be made on (a) 24-hour composite samples proportioned according to flow collected no closer together than 2 hours in 12 individual portions.
10.00 or greater	The daily flow measured by a	One each day of	One each day of the	One each day of the week	One each	The laboratory test excepting the pH and

	totalizing meter	the week	week		day of the week	the chlorine residual test which are performed on grab samples or insitu shall be made on 24-hour composite samples proportioned according to flow collected no closer together than 2 hours in 12 individual portions.
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- (a) Weekday - Monday thru Friday.
- (b) Where a totalizing meter is provided, the actual volume of water which has been processed each day should be determined and reported.
- (c) Working Day - A day when the plant is visited for routine work.
- (d) Peak loading period - That time during the calendar day when the maximum flow rate is experienced within the facility.
- (e) Flow - Determined by actual measurement of effluent flow or determined by calculation based upon influent measurement unless effluent flow is specified in the permit.

NOTE: See 30 TAC 319.5(e) concerning additional measurements and documentation.

(b) The following table sets forth the bacteria self-monitoring schedules applicable to treated domestic sewage effluent that is discharged to water in the state.

Figure: 30 TAC §319.9(b)

Table 2
 FREQUENCY OF BACTERIA MEASUREMENT

Minimum Required Frequency ^{1, 2, 3, 4}			
Flow (mgd)	Chlorine Systems	Ultraviolet Systems	Natural Systems
>10	5/week	Daily	Daily
5--10	3/week	Daily	5/week
1—5	1/week	Daily	3/week
0.5—1.0	2/month	Daily	1/week
0.1—0.5	1/month	5/week	2/month
<0.1	1/quarter	5/week	1/month

(1) Sampling must be spaced across the time period at approximately equal intervals, with the exceptions of the five times per week sampling schedule. Five samples per week must be taken one on each of five days during a seven day period.

(2) A permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission of its compliance and request a less frequent measurement schedule.

(a) If the commission finds that a less frequent measurement schedule is protective of human health and the environment, the permittee will be given a less frequent measurement schedule. Daily will drop to 5/week, 5/week to 3/week, 3/week to 1/week, 1/week to 2/month, 2/month to 1/month, 1/month to 1/quarter, 1/quarter to 1/6 months.

(b) A violation of the bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule.

(c) A permittee that has had a violation while on a less frequent measurement schedule may not apply for another reduction in measurement frequency for at least 24 months from the last violation.

(3) A chemical system other than chlorine will be required to comply with the ultraviolet frequency schedule.

(4) The executive director may establish a more frequent measurement schedule if necessary to protect human health or the environment.

(c) [(b)] The following table sets forth the self-monitoring schedules applicable to nondomestic wastewater effluent.

Figure: 30 TAC §319.9(c)

[Figure: 30 TAC §319.9(b)]

Table 3 [2]
 Frequency of Measurement
 Volume of MGD

Parameter	0 to less than 0.05	0.05 to less than 0.50	0.50 to less than 2.00	2.00 to less than 10.00	10.00 to greater
Flow	One instantaneous measurement per operating day except on	One instantaneous measurement per operating shift - on	One instantaneous measurement per operating shift - on	Six instantaneous measurements per day spaced at equal	Instantaneous measurements made each operating hour or the reading

	sample days when 3 instantaneous measurements made concurrently with the collection of sample portions are required.	sample days concurrent with the collection of a sample portion.	sample days concurrent with the collection of a sample portion or the reading from a totalizing flow meter.	intervals during the operating period or the reading from a totalizing flow meter.	from a totalizing flow meter.
pH (a)	1 per day	1 per day	1 per day	1 per day	1 per day
Temperature (b)	1 per day	3 per day	3 per day	6 per day	12 per day
BOD	1 per week	2 per week	2 per week	3 per week	1 per day
COD	1 per week	2 per week	2 per week	3 per week	1 per day
TOC	1 per week	2 per week	2 per week	3 per week	1 per day
Oil & Grease (c)	1 per week	2 per week	2 per week	3 per week	1 per day
Ammonia Nitrogen	1 per week	2 per week	2 per week	3 per week	1 per day
Arsenic	1 per week	2 per week	2 per week	3 per week	1 per day
Barium	1 per week	2 per week	2 per week	3 per week	1 per day
Boron	1 per week	2 per week	2 per week	3 per week	1 per day
Cadmium	1 per week	2 per week	2 per week	3 per week	1 per day
Chromium	1 per week	2 per week	2 per week	3 per week	1 per day
Copper	1 per week	2 per week	2 per week	3 per week	1 per day
Lead	1 per week	2 per week	2 per week	3 per week	1 per day
Manganese	1 per week	2 per week	2 per week	3 per week	1 per day
Mercury	1 per week	2 per week	2 per week	3 per week	1 per day
Nickel	1 per week	2 per week	2 per week	3 per week	1 per day
Selenium	1 per week	2 per week	2 per week	3 per week	1 per day

Silver	1 per week	2 per week	2 per week	3 per week	1 per day
Zinc	1 per week	2 per week	2 per week	3 per week	1 per day
TSS	1 per week	2 per week	2 per week	3 per week	1 per day
TDS	1 per week	2 per week	2 per week	3 per week	1 per day
Chloride	1 per week	2 per week	2 per week	3 per week	1 per day
Sulphate	1 per week	2 per week	2 per week	3 per week	1 per day
Nitrate Nitrogen	1 per week	2 per week	2 per week	3 per week	1 per day
Sulfide (c)	1 per week	2 per week	2 per week	3 per week	1 per day
Phenol (c)	1 per week	2 per week	2 per week	3 per week	1 per day
Collection of Samples	Samples shall be composite samples made up of three portions, sized proportional to flow, collected to no closer together than one hour and over a span of time not exceeding 24 hours.	Samples shall be composite samples made up of three portions, sized proportional to flow, one portion being collected during each operating shift or otherwise suitably distributed throughout the operating day.	Samples shall be composite samples made up of three portions, sized proportional to flow, one portion being collected during each operating shift or otherwise suitably distributed throughout the operating day.	Samples shall be composite samples made up of six portions, sized proportional to flow, collected concurrently with the instantaneous flow measurements made during a 24 hour time span.	Samples shall be 24 hour composite samples collected in 12 or more individual portions, sized proportional to flow, equally spaced throughout the operating day.

- (a) The required laboratory tests shall be made on grab samples and analyzed immediately after collection or analyzed in situ at the permit sampling point.
- (b) The temperature shall be measured in situ on the water at the permit sampling point.
- (c) The required laboratory tests shall be made on grab samples.

(d) [(c)] The following table sets forth the quality assurance requirements for wastewater analyses.

Figure: 30 TAC §319.9(d)

[Figure: 30 TAC §319.9(c)]

Table 4 [3]

REQUIRED QUALITY CONTROL ANALYSES

<u>Parameter</u>	<u>Blank</u>	<u>Standard</u>	<u>Duplicate</u>	<u>Spike</u>
Bacterial	A		B	
Alkalinity		A	B	
Ammonia Nitrogen	A	A	B	B
BOD	A	A	B	
BOD-carbonaceous	A	A	B	
COD	A	A	B	B
Chloride	A	A	B	B
Chlorine-Total or Free		D		
Cyanide-Total or Amenable to Chlorination	A	A	B	B
Fluoride	A	A	B	B
pH		C		
Kjeldahl Nitrogen	A	A	B	B
Metals (all)	A	A	B	B
Nitrate Nitrogen	A	A	B	B
Nitrite Nitrogen	A	A	B	B
Oil & Grease	A	D		
Orthophosphate	A	A	B	B
Oxygen (dissolved)		A	B	

Phenols	A	A	B	
Phosphorus-Total	A	A	B	B
Specific Conductance	A	A		
Sulfate	A	A	B	B
Sulfide	A	A	B	
Sulfite	A	A	B	
TOC	A	A	B	B
TSS	A		B	
TDS	A	A	B	
Organics by GC or GC/MS or other approved methods	A	A	E	E

Where:

A - Wherever specified, at least one blank and one standard shall be performed each day that samples are analyzed.

B - Wherever specified, duplicate and spike analyses shall be performed on a 10% basis each day that samples are analyzed. If one to 10 samples are analyzed on a particular day, then one duplicate and one spike analyses shall be performed.

C - For pH analysis, the meter shall be calibrated each day that samples are analyzed using a minimum of two standards which bracket the pH value(s) of the sample(s).

D - For the oil and grease analysis and chlorine-total or free analysis, standards shall be analyzed on a 10% basis. If one to 10 samples are analyzed on a particular day, then one standard shall be analyzed. Duplicates may be analyzed in lieu of standards for the oil and grease analysis and chlorine-total or free analysis.

E - For GC and GC/MS analyses, duplicate and spike analyses shall be performed on a 5% basis. If one to 20 samples are analyzed in a month, then one duplicate and one spike analyses per month shall be performed.

§319.10

STATUTORY AUTHORITY

The repeal is proposed under the Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission. TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority provided by TWC. TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the code and other laws of the state. TWC, §5.104, which states that the commission, by rule, will develop memoranda of understanding necessary to clarify and provide for its respective duties, responsibilities, or functions on any matter under the jurisdiction of the commission that is not expressly assigned to the commission. TWC, §5.105, which authorizes the commission to adopt rules and policies necessary to carry out its responsibilities as provided by the TWC. TWC, §5.120, which requires the commission to "administer the law so as to promote the judicious use and maximum conservation and protection" of the environment and natural resources of the state. TWC, §26.011, which provides the commission with the authority to establish the level of quality to be maintained in, and to control the quality of, the water in the state. TWC, §26.013, which authorizes the executive director to conduct or have conducted any research and investigations it considers advisable and necessary for the discharge of the duties under Chapter 26 of the TWC. TWC, §26.027, which authorizes the TCEQ to issue permits for the discharge of waste or pollutants into or adjacent to water in the state.

The repeal is also proposed under the Texas Water Quality Control Act which gives the TCEQ the authority to adopt rules for the approval of disposal system plans under TWC, §26.034, as well as the authority to set standards to prevent the discharge of waste that is injurious to the public health under TWC, §26.041.

The proposed repeal implements TWC, §§5.013, 5.102, 5.103, 5.104, 5.105, 5.120, 26.011, 26.013, 26.027, 26.034, and 26.041.

[§319.10. Fecal Coliform Requirements.]

[The commission may impose disinfection in accordance with § 309.3(g) of this title (relating to Application of Effluent Sets), fecal coliform concentration, or total coliform concentration requirements for domestic wastewater discharges on a case-by-case basis in order to maintain and enhance water quality and associated public health needs.]