

The Texas Natural Resource Conservation Commission (commission) proposes new §§210.51-210.55, Subchapter E, relating to special requirements for use of industrial reclaimed water. These rules would facilitate the conservation and reuse of water by authorizing certain industrial reclaimed water activities; ensure the protection of the public health; protect the quality of surface water and ground water; and help ensure an adequate supply of water for present and future needs.

The proposed new sections establish criteria for authorization of reclaimed water activities which adequately protect the health of persons who might normally come into contact with industrial reclaimed water, will protect against adverse effects from reclaimed water should crops be irrigated with industrial reclaimed water, and will ensure that the conveyance, storage, and use of reclaimed water will not pose adverse effects upon surface water, ground water, and soil resources. These sections will not in any way establish new or different requirements for the producer, provider, and/or user to hold the appropriate water rights allowing the use of state water. These sections do not affect any current requirements necessitating the need for a commission permit for a water right or amendment, if applicable to a particular industrial reclaimed water use or activity.

The proposed new §§210.51-210.55 establish approval procedures for authorization of certain industrial reclaimed water activities. These sections are contained together in Subchapter E (relating to Special Requirements for Industrial Reclaimed Water).

Proposed new §210.51, relating to Applicability of Reclaimed Water Proposals, specifies the conditions under which a provider or user may use industrial reclaimed water.

Proposed new §210.52, relating to Definitions, provides the definitions of some words and terms used in the subchapter.

Proposed new §210.53, relating to Relationship to Requirements for Domestic Reclaimed Water, specifies the requirements of the chapter that do not apply to a producer, provider, or user of industrial reclaimed water.

Proposed new §210.54, relating to the Authorization of Industrial Reclaimed Water Use, provides the types of industrial wastewaters authorized for beneficial use as industrial reclaimed water and the beneficial uses.

Proposed new §210.55, relating to Record Keeping and Reporting, specifies the record keeping requirements which the industrial reclaimed water producer must maintain.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years these sections as proposed are in effect, there will be fiscal implications as a result of enforcement and administration of the sections. There are no significant implications anticipated for state government. Local governments affected by the provisions will realize potential cost savings as a result of adoption of the sections. The cost savings for local governments may result from the new opportunities for use of industrial reclaimed water afforded by this rule. Thus this could reduce the demand for and the treatment cost of water provided through public drinking water supply systems. These potentially limited cost savings will vary among local governments in the state and will depend

on the extent to which industrial wastewaters are reclaimed under these sections and the current costs of treating and supplying water within each jurisdiction.

Mr. Minick has also determined that for the first five years these sections as proposed are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be more cost-effective regulation of the use of industrial reclaimed wastewaters which will directly benefit persons who produce industrial reclaimed water, the more efficient use of public water supplies, and enhanced conservation of surface and ground water resources. There are no significant fiscal implications anticipated for small businesses. Holders of industrial or non-domestic wastewater permits will potentially realize the cost savings attributed to local governments. There are no economic costs anticipated for any person required to comply with the sections as proposed.

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that Assessment. The specific purpose of the proposed emergency rule is to ease the burden on the commission and those regulated by the rule in authorizing the use of reclaimed water. Promulgation and enforcement of these rules will not affect private real property which is the subject of the rules.

Written comments may be mailed to Lutrecia B. Oshoko, TNRCC, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087; or faxed to (512) 239-5687. All comments sent by fax must be followed by an original, signed hard copy for the agency's records. All comments should reference Rule Log Number 96156-210-WT. Comments must be received by 5:00

p.m., within 30 days after the date of publication of this proposal in the *Texas Register*. For further information, please contact Tom Weber, (512) 239-4554.

These rules are proposed under the Texas Water Code, §5.102, which provides the commission with general powers to carry out duties under the Texas Water Code and §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and the laws of this state.

There are no other codes, rules or statutes that will be affected by this proposal.

**SUBCHAPTER E : SPECIAL REQUIREMENTS FOR USE
OF INDUSTRIAL RECLAIMED WATER**

§§210.51-210.55

These sections are proposed under the Texas Water Code, (Vernon 1995), §5.103, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

§210.51. Applicability.

(a) This subchapter applies to the industrial reclaimed water producer, provider, and user. Except as expressly described in this subchapter, the requirements for a reclaimed water producer, provider, or user described elsewhere in this chapter also apply to a producer, provider, or user of industrial reclaimed water.

(b) This subchapter does not affect:

(1) Authorized discharges already permitted.

(2) Use of industrial reclaimed water in any manner which does not constitute discharge.

(3) Transfers of industrial wastewater to another entity for use in any manner which does not constitute discharge.

(4) Any other applicable requirements including, but not limited to those which relate to the management of industrial solid waste, pursuant to Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste).

(c) Any use of industrial reclaimed water as described in this subchapter or any use noted in subsection (b) of this section does not constitute an unauthorized diversion of wastewater.

§210.52. Definitions.

The following words and terms when used in this subchapter have the following meanings unless the context indicates otherwise.

Blowdown - The minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts which could damage or impair machinery, equipment, or systems.

Industrial Reclaimed Water - Any industrial wastewater as specifically identified in §210.54 of this title (relating to Authorization of Industrial Reclaimed Water Use) and which has been treated, if necessary, to a quality suitable for beneficial use pursuant to the provisions of this chapter.

Industrial Wastewater - A non-domestic or non-municipal wastewater.

Minimum Analytical Level or MAL - The pollutant concentration as listed in Table 8 of "Implementation of the Texas Natural Resource Conservation Commission Standards Via Permitting" and also described in the Industrial Wastewater Permit Application Technical Report. This report is available from the Wastewater Permits Section, TNRCC, P.O. Box 13087, Austin, Texas, 78711.

Non-process Area Stormwater - Stormwater which has not come into direct contact with manufacturing or process areas which could also cause contamination of the stormwater with process associated pollutants.

Non-contact Cooling Water - Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Once-Through Cooling Water - Water passed through the main cooling condensers in one or two passes for the purpose of removing waste heat.

Priority Pollutants - The pollutants as listed in Table 6B of the Industrial Wastewater Permit Application Technical Report. This report is available from the Wastewater Permits Section, TNRCC, P.O. Box 13087, Austin, Texas, 78711.

Producer - An entity or person that produces industrial reclaimed water as identified in this subchapter.

§210.53. Relationship to Requirements for Domestic Reclaimed Water.

(a) The producer or user of industrial reclaimed water is not required to hold a permit for treatment and disposal as described in §210.1 of this title (relating to Applicability). However, it is the

responsibility of the producer to provide for an alternative means of disposal during times when there is no demand for the use of the industrial reclaimed water.

(b) A producer who chooses to use industrial reclaimed water for a beneficial use only within the boundaries of the industrial facility, may do so without notification pursuant to §210.4 of this title (relating to Notification). In such instances, the producer is still required to comply with all applicable requirements of this chapter pertaining to the industrial reclaimed water use. All exposed or buried piping receiving industrial reclaimed water constructed within the boundaries of the industrial facility is exempt from the color coding requirements of §210.25 of this title (relating to Special Design Criteria for Reclaimed Water Systems).

(c) The requirements of §210.5(d) of this title (relating to Authorization for the Use of Reclaimed Water) do not apply to a provider or user of industrial reclaimed water.

(d) The requirements of §210.25(e), (f), and (h) of this title (relating to Special Design Criteria for Reclaimed Water Systems) do not apply to the producer, provider, or user of industrial reclaimed water.

(e) The requirements of §210.31 of this title (relating to Applicability), §210.32 of this title (relating to Specific Uses of Reclaimed Water), §210.33 of this title (relating to Quality Standards for Using Reclaimed Water), §210.34 of this title (relating to Sampling and Analysis), §210.35 of this title

(relating to Guidelines for Certain Distribution Systems), and §210.36 of this title (relating to Record Keeping and Reporting), do not apply to the producer, provider, or user of industrial reclaimed water.

(f) For purposes of applying the requirements of §210.23 of this title (relating to Storage Requirements for Reclaimed Water) to the authorized uses of industrial reclaimed water identified in §210.54 of this title (relating to Authorization of Industrial Reclaimed Water Use), industrial reclaimed water will be considered equivalent to Type I reclaimed water.

§210.54. Authorization of Industrial Reclaimed Water Use.

(a) Beneficial use of the following specific industrial reclaimed waters is authorized within the boundaries of the industrial facility. Beneficial use of the following specific industrial reclaimed waters is authorized when conveyed or used outside of the boundaries of the industrial facility upon approval of the executive director in accordance with §210.4 of this title (relating to Notification).

- (1) Air Conditioning Condensate.
- (2) Cooling Tower Blowdown.
- (3) Fruit and Vegetable Washwater.
- (4) Non-contact Cooling Water.

(5) Non-process Area Stormwater.

(6) Once Through Cooling Water.

(7) Steam condensate.

(8) Wastewaters treated by Supercritical Oxidation.

(b) If industrial reclaimed water is not one specified in subsection (a) of this section, beneficial use of industrial reclaimed waters is allowable within the boundaries of the industrial facility if the specifications of this subsection are met. Beneficial use of such industrial reclaimed waters is authorized when conveyed or used outside the boundaries of the industrial facility upon approval of the executive director in accordance with §210.4 of this title (relating to Notification).

(1) Chemical Oxygen Demand less than or equal to 150 mg/l,

(2) Total Organic Carbon less than or equal to 55 mg/l,

(3) Oil and Grease less than or equal to 10 mg/l,

(4) Nitrate Nitrogen less than or equal to 10 mg/l,

(5) Priority Pollutant concentrations less than or equal to the MAL, and

(6) Concentrations of arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc less than or equal to the MAL.

(7) If the industrial reclaimed water is commingled with domestic wastewater, then the fecal coliform concentration must be less than or equal to 75 CFU/100 ml.

(c) The executive director may approve of the beneficial use of industrial reclaimed water where the concentration of a priority pollutant or one of the metal constituents described in subsection (b) (5) or (6) of this section exceed an MAL. The executive director will consider the concentration of the constituent and its potential for an adverse impact upon human health or waters in the state in making a determination to approve the use. Requests for these approvals must be submitted to the executive director in accordance with §210.4 of this title (relating to Notification).

(d) The following uses of industrial reclaimed water are considered acceptable:

(1) Residential or industrial irrigation, including landscape irrigation.

(2) Urban uses, including but not limited to irrigation of parks, golf courses with restricted or unrestricted public access, school yards, athletic fields, right-of-ways.

- (3) Fire protection.
- (4) Dust suppression and soil compaction.
- (5) Maintenance of impoundments.
- (6) Irrigation of non-food crops, including but not limited to sod farms and silviculture.

§210.55. Record Keeping and Reporting.

(a) The industrial reclaimed water provider and user shall maintain records on site for a period of five years. The records to be maintained by the provider include:

- (1) copies of notifications made to the commission concerning industrial reclaimed water projects.
- (2) as applicable, copies of contracts made with each industrial reclaimed water user (this requirement does not include industrial reclaimed water users at residences that have separate distribution lines for potable water).

(3) records of volume of water delivered to each reclaimed water user per delivery (this requirement does not apply to industrial reclaimed water users at residences that have separate distribution lines for potable water).

(b) For industrial reclaimed waters authorized under §210.54(b) of this title (relating to Authorization of Industrial Reclaimed Water Use), records of water quality analyses must be kept on-site for a period of at least 5 years. A grab sample of the reclaimed water must be taken and analyzed at least once per year for the constituents listed in §210.54(b) of this title (relating to Authorization of Industrial Reclaimed Water Use) that are expected to be present.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on