

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 22, 2016

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: L'Oreal W. Stepney, P.E., Deputy Director
Office of Water

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2016-0381-PET

Project No.: 2016-033-PET-NR

Who Submitted the Petition:

On March 14, 2016, the Texas Commission on Environmental Quality (commission) received a petition from the City of Austin (petitioner).

What the Petitioner Requests:

The petitioner requested that the commission initiate rulemaking to amend 30 Texas Administrative Code (TAC) Chapters 222 and 309. The proposed rules would allow permittees and applicants to rely on the beneficial reuse of treated wastewater when calculating the size of effluent storage and the amount of land required for disposal of wastewater. This would allow permittees and applicants to reduce the effluent storage size and dedicated land application acreage that are currently required by rule.

Recommended Action and Justification:

The executive director recommends approval of the petition to initiate rulemaking with stakeholder involvement. Through the stakeholder process, the executive director will further evaluate the technical aspects of the proposal to ensure adequate environmental protection is achieved. Current regulations require permittees and applicants to base the effluent storage size and dedicated land application acreage on the total volume of wastewater generated by the facility. Permittees are not allowed to reduce the wastewater volume, and thus the effluent storage size and land application acreage, by the amount of wastewater that is beneficially reused under the 30 TAC Chapter 210 regulations.

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule;
- 30 TAC §20.15, which provides such procedures specific to the commission;
- Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under the TWC and other laws of the state;
- TWC, §5.102, which establishes the commission's authority necessary to carry out its jurisdiction;
- TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013;

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- TWC, §5.120, which authorizes the commission to promote maximum conservation and protection of the quality of the environment and natural resources of the state;
- TWC, §26.0135, which authorizes the commission to monitor and assess the water quality of each watershed and river basin in the state;
- TWC, §26.027, which authorizes the commission to issue permits; and
- TWC, §26.121, which provides the commission's authority to prohibit unauthorized discharges into or adjacent to water in the state.

Agency Contacts:

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Linda Horng, Staff Attorney, (512) 239-0676

Kris Hogan, Texas Register Coordinator, (512) 239-6812

Attachment:

Petition

Comment letters in support of the petition

cc: Chief Clerk, 2 copies
Executive Director's Office
Marshall Coover
Erin Chancellor
Stephen Tatum
Jim Rizk
Office of General Counsel
Yvonna Miramontes
David Galindo
Laurie Fleet
Kris Hogan