Determination of Applicability of 316(b) Final Rule Flowchart

Is water used for cooling purposes?

No → Stop³

Yes → Does the facility own and/or operate a CWIS¹ that withdraws from WOTUS²?

No → Does a third party own and/or operate a CWIS³?

No → Stop³

Yes → Is the Design Intake Flow greater than 2 million gallons per day?

No → Is the third party considered to be a Public Water System⁴?

Yes → The facility may be responsible for ensuring the third party CWIS¹ is compliant with rules applicable to CWIS¹. Consult with TCEQ Industrial Permitting Staff to determine an appropriate course of action.

No → Is 25% or more of the water withdrawn exclusively for cooling purposes⁶?

Yes → The facility is required to comply with Section 316(b) of the CWA⁷ for CWIS¹

No → Stop³

¹Cooling Water Intake Structure.
²Waters of the United States. See the Water of the United States Flowchart if unsure.
³The facility is not subject to Section 316(b) of the CWA⁷.
⁴The facility is subject to Section 316(b) of the CWA⁷; however, the determination of BTA for minimizing AEI will be determined on best professional judgement basis by the TCEQ.
⁵If a supplier is registered with the TCEQ as a public water supplier, it is a Public Water System (PWS).
⁶Excludes reclaimed water, treated effluent and water used in a manufacturing process before/after it is used for cooling purposes.
⁷Clean Water Act.