

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendments to §§321.301, 321.303, 321.305, 321.307, 321.309, 321.313, 321.315, 321.319, and 321.321.

Section 321.305 is adopted with changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 *TexReg* 8326), and therefore will be republished. Sections 321.301, 321.303, 321.307, 321.309, 321.313, 321.315, 321.319, and 321.321 are adopted without changes to the proposed text and will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

Senate Bill (SB) 1289, 88th Texas Regular Legislative Session (2023), amended the Texas Water Code (TWC), Chapter 26, by adding §26.02715. The bill allows a wastewater treatment facility that treats domestic wastewater for reuse to dispose of the treated wastewater without a permit for an alternative means of disposal, if the facility disposes of the treated wastewater through a wastewater collection system and has consent of the operator of the wastewater collection system that will receive the treated wastewater, and any treatment facility that will further treat the wastewater.

TCEQ is adopting amendments to Title 30 of the Texas Administrative Code (TAC) Chapter 321 (Control of Certain Activities by Rule), Subchapter P (Reclaimed Water Production Facilities) to allow a reclaimed water production facility to dispose of reclaimed water through a collection system to an associated domestic wastewater treatment facility by obtaining consent from the owner and operator of the collection system and the associated domestic wastewater treatment facility that will receive the reclaimed water for final treatment and disposal.

Section by Section Discussion

Amended §321.301, *Purpose and Applicability*, clarifies that an additional disposal or discharge permit from the commission is not required for reclaimed water production facilities that meet certain requirements. The amended section also clarifies that a reclaimed water production facility may be authorized to dispose of treated wastewater under this subchapter if the owner of the reclaimed water production facility has documented consent from the owner and operator of an associated domestic wastewater treatment facility, and the owner of the wastewater collection system to which the reclaimed water production facility is or will be connected, if applicable.

Amended §321.303, *Definitions*, adds a new definition for Collection System. The subsequent definition is renumbered.

Amended §321.305, *General Requirements*, expands existing requirements to allow for a reclaimed water production facility with consent from the owner and operator of the associated domestic wastewater treatment facility and collection system to dispose of the treated wastewater through a wastewater collection system; and removes the requirement for a discharge or disposal permit for those facilities. The amended section clarifies that the authorization for a reclaimed water production facility does not alter the permitted flow or effluent limits of the associated domestic wastewater treatment facility. The amended section adds requirements for the owner or operator of the reclaimed water production facility to provide TCEQ with written notice of the termination of consent and confirmation that reclaimed water production facility operations have ceased within five working days of being notified that the consent has been withdrawn. This section has been revised from proposal to correct a reference added under new subsection 321.305(d) to read “321.305(a)(2).”

Amended §321.307, *Restrictions*, clarifies that the discharge of pollutants from a reclaimed water production facility to water in the state requires a Texas Pollutant Discharge Elimination System permit. The amended section establishes that sludge from a reclaimed water production facility that has obtained consent from the owner and operator of an associated domestic wastewater treatment facility, and the owner of the wastewater collection system to which the reclaimed water production facility is or will be connected, must be conveyed to an associated domestic wastewater treatment facility through the collection system.

Amended §321.309, *Application Requirements*, clarifies that applications submitted under this subchapter must comply with §305.42(a) relating to *Application Required*. The amended section revises the requirement to provide a wastewater permit number for the permit number information required in a reclaimed water production facility authorization application. The amended section adds a requirement for reclaimed water production facilities seeking coverage for disposal through an associated domestic wastewater treatment facility to submit documentation of consent from the owner and operator of the associated domestic wastewater treatment facility and collection system, if applicable. Subsequent requirements are renumbered for clarity.

Amended §321.313, *Authorization*, clarifies that the executive director shall not authorize a reclaimed water production facility that disposes of treated reclaimed water through the collection system of an associated domestic wastewater treatment facility with an unsatisfactory compliance history rating. The amended section also updates the compliance history rating term “poor” to “unsatisfactory” for consistency with current agency terminology.

Amended §321.315, *Design Requirements*, clarifies that reclaimed water production facilities must be designed such that all wastewater is conveyed to the associated domestic wastewater treatment facility any time that the facility is not in operation. The amended section also clarifies that reclaimed water production facilities must be designed to convey all sludge to the associated domestic wastewater treatment facility.

Amended §321.319, *Public Notice Requirements*, clarifies that the applicant will describe the proposed reclaimed water production facility at a public meeting. In addition, a subsection was renumbered for consistency.

Amended §321.321, *Additional Reclaimed Water Production Facility Requirements*, clarifies the requirement for the operator of a reclaimed water production facility to have the same level of license or higher as the operator of the domestic or associated domestic wastewater treatment facility.

Final Regulatory Impact Determination

TCEQ reviewed the amended rules in consideration of the regulatory analysis of major environmental rules required by Texas Government Code (TGC), §2001.0225, and determined that the rulemaking is not subject to TGC, §2001.0225(a) because it does not meet the definition of a “Major environmental rule” as defined in TGC, §2001.0225(g)(3). The following is a summary of that review.

Section 2001.0225 applies to a “Major environmental rule” adopted by a state agency, the result of which is to exceed standards set by federal law, exceed express requirements of state law, exceed requirements of delegation agreements between the state and the federal government to

implement a state and federal program, or adopt a rule solely under the general powers of the agency instead of under a specific state law. A “Major environmental rule” is 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 or the state.

The Texas Legislature enacted SB 1289, amending TWC, Chapter 26 (Water Quality Control), Subchapter B (General Water Quality Power and Duties), by adding §26.02715 to the TWC. The intent is to increase the efficiency of water treatment and production facilities by providing more flexibility in TCEQ’s rules for Wastewater Treatment and Reclaimed Water Production Facilities, related to *Use of Reclaimed Water*, found in 30 TAC Chapters 321 and 210.

SB 1289 directs TCEQ to provide flexibility, through rulemaking, for facilities that use domestic wastewater treated for reuse (reclaimed water), to dispose of any reclaimed water without an additional permit under certain conditions.

Reclaimed water producers are currently authorized to use its treated reclaimed water only if it obtains a permit for an alternative means of disposal during times when there is no demand for its reclaimed water. TCEQ rules also require that the owner of any RWPF authorized by TCEQ, be the owner of a wastewater treatment facility permitted by TCEQ.

SB 1289 instructs TCEQ to promulgate rules that authorize facilities to convey reclaimed water to a willing “associated domestic wastewater treatment facility” and its wastewater collection system, as an “alternative means of disposal,” as required under 30 TAC Chapter 210.

SB 1289 also prohibits TCEQ from requiring an owner of a reclaimed water production facility to be the owner of the associated domestic wastewater treatment facility that is permitted by TCEQ.

SB 1289 directs TCEQ to amend TCEQ rules in 30 TAC Chapter 321, *Control of Certain Activities by Rule*, Subchapter P *Reclaimed Water Production Facilities*, which relate to facilities treating domestic wastewater for reuse purposes (“Reclaimed Water”).

Specifically, SB 1289 instructs TCEQ to adopt rules that authorize RWPFs to dispose of treated reclaimed water without an additional permit, if the RWPF disposes of the treated reclaimed water through an “associated domestic wastewater treatment facility” and its wastewater collection system, after receiving consent from the owner and operator of the associated domestic wastewater treatment facility that will receive the reclaimed water for further or final treatment and disposal.

Therefore, the specific intent of the adopted rulemaking is related to providing flexibility, in the form of additional options for facilities that produce reclaimed water, as identified in SB 1289.

Certain aspects of TCEQ’s Reclaimed Water Rules are intended to protect the environment or reduce risks to human health from environmental exposure. However, the adopted rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs; nor will the adopted rulemaking adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state. Therefore, the adopted rulemaking does not fit the TGC, §2001.0225 definition of “Major environmental rule.”

Even if this rulemaking was a "Major environmental rule," this rulemaking meets none of the criteria in TGC, §2001.0225 for the requirement to prepare a full Regulatory Impact Analysis. First, this rulemaking is not governed by federal law. Second, it does not exceed state law but rather amends authorizations in state law and TCEQ rules. Third, it does not come under a delegation agreement or contract with a federal program, and finally, it is not being adopted under TCEQ's general rulemaking authority. This rulemaking is being adopted under a specific state statute enacted in SB 1289 in the 88th Texas Regular Legislative Session (2023) and implements existing state law. Because this adoption does not constitute a major environmental rule, a regulatory impact analysis is not required.

Therefore, the commission does not adopt the rule solely under the commission's general powers.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the draft regulatory impact analysis determination.

Takings Impact Assessment

TCEQ evaluated the adopted rulemaking and performed an analysis of whether it constitutes a taking under TGC, Chapter 2007. The following is a summary of that analysis.

Under TGC, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and

Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the adopted rulemaking is to implement the legislative amendments to the TWC in SB 1289 by amending TCEQ's Reclaimed Water Rules to expand the regulatory options for disposal of reclaimed water, as identified in SB 1289. The adopted rulemaking will substantially advance the stated purpose of SB 1289 by adopting new rule language that provides for disposal of reclaimed water without an additional permit under the conditions identified in SB 1289.

Promulgation and enforcement of the adopted rules will not be a statutory or constitutional taking of private real property because, as the commission's analysis indicates, TGC, Chapter 2007 does not apply to these adopted rules because these rules do not impact private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. Specifically, the adopted rulemaking does not apply to or affect any landowner's rights in any private real property because it does not burden (constitutionally), restrict, or limit any landowner's right to real property and reduce any property's value by 25% or more beyond that which would otherwise exist in the absence of the regulations. The primary purpose of the adopted rules is to implement SB 1289

by providing for the authorization, under conditions identified in SB 1289, for disposal of reclaimed water without an additional permit when conveyed to an associated domestic wastewater treatment facility. The adopted rulemaking is reasonably taken to fulfill requirements of state law. Therefore, the adopted rulemaking will not cause a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the amended rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program (CMP).

The commission invited public comments on the consistency with the CMP during the public comment period. No comments were received regarding the CMP.

Public comment

The commission offered a public hearing on November 1, 2024. The 30-day comment period closed on November 12, 2024. The commission received 3 public comments from an individual, Maverick Water Group, and City of Austin Watershed Protection Department.

Comment 1:

Mr. Joseph Hamel commented, 321.305(d) - If the consent under §321.305(a)(1)(B) is withdrawn by the collection system or associated domestic wastewater treatment facility owner(s), the authorization to operate the reclaimed water production facility without an alternate disposal

permit is terminated. Bad reference. There is no §321.305(a)(1)(B).

Response 1:

TCEQ thanks Mr. Hamel for noting this error. The erroneous reference has been corrected to §321.305(a)(2).

Comment 2:

MWG commented they appreciate and support Texas Senate Bill 1289, authored by Chairman Perry, and TCEQ's implementing rules ("SB 1289 implementation").

MWG commented that SB 1289 implementation provides clear guidelines for water reuse, which will encourage investment, promote more efficient and effective water management practices.

MWG commended TCEQ for its straightforward approach on SB 1289 implementation.

Specifically, the proposed changes to 30 TAC 210 and 30 TAC 321 provide clarity on TCEQ's process to encourage sustainable management of our state's precious water resources. Clear, balanced rules for beneficially reusing water without unnecessary burdens are critical to delivering the water Texas needs as stated in the Texas Water Plan.

Response 2:

TCEQ acknowledges and thanks MWG for their appreciation and support of SB 1289 and TCEQ's implementation strategy. No changes have been made in response to this comment.

Comment 3:

WPD commented that the following corrections are needed to existing rule text:

- Chapter 210.4 (Notifications) in §210.4(d): The reference to Chapter 313 should be corrected to reference Chapter 213.

- Chapter 210.6 (5): The reference to Chapter 317 should be corrected to reference Chapter 217.

Response 3:

TCEQ thanks WPD for noting these needed corrections. The reference under 30 TAC §210.4(d) has been corrected to state Chapter 213 (Edwards Aquifer). The rule text in 30 TAC §210.6 was not revised during this limited-scope rulemaking to implement SB 1289, and the correction to this subsection will be incorporated during a subsequent rulemaking.

Comment 4:

WPD commented that Chapter 210 does not explicitly require monitoring of the soil moisture or nutrient balance for soil as required in Chapter 309.20 for Texas Land Application Permits (TLAP). WPD noted the proposed change to §210.2 does not ensure compliance with the requirements of §309.20. WPD recommends the following edit: “(b) The commission has defined other types of reclaimed water activity in separate regulations, including Chapter 321, Subchapter P of this title (relating to Reclaimed Water Production Facilities), Chapter 309 of this title (relating to Land Application of Sewage Effluent), and Chapter 297 of this title (relating to Definitions). These regulations do not modify those definitions or requirements. The term reclaimed water is limited in scope for the purpose of this rule as defined in §210.3 of this title (relating to Definitions).”

Response 4:

Rules established under Chapter 309 relate to the land application of wastewater effluent as a method of disposal. Rules established under Chapter 210 relate to the beneficial reuse of reclaimed water as an alternative option to final disposal methods. The cited language references applicable definitions contained in Chapter 309 but not requirements. No changes

have been made in response to this comment.

Comment 5:

WPD recommended the addition of standards on reclaimed water irrigation to Chapter 210 for environmentally sensitive areas such as the Edwards Aquifer Recharge Zone and a prohibition on reclaimed water irrigation within proximity to permeable features such as caves, sinkholes, faults, and fractures. For example, the City of Austin’s Land Development Code prohibits wastewater irrigation within 150 feet from these environmentally sensitive features.

Response 5:

TCEQ thanks WPD for recommending these additions. The relevant sections of Chapter 210 were not opened during this limited-scope rulemaking to implement SB 1289, and these recommended additions will be reviewed and addressed during a subsequent rulemaking. No changes have been made in response to this comment.

Comment 6:

WPD commented that the TCEQ strategy of allowing Reclaimed Water Production Facilities (RWPF) authorizations combined with Chapter 210 reclaimed water user authorizations in place of TLAP permits represents a reduction in application, monitoring, and design requirements by simply receiving letters from an owner and operator of a collection system and associated wastewater treatment plant who agree to accept all reclaimed water that is not in demand from the Chapter 210 reclaimed water users associated with the RWPF. The rule changes to 30 TAC 321 and Chapter 210 implement those reductions of protections in accordance with SB 1289. Any failures of this new system should receive appropriate enforcement from TCEQ due to the increased risks to the environment from the proposed changes.

Response 6:

TCEQ acknowledges and thanks WPD for their comment. TCEQ concurs the proposed amendments to 30 TAC Chapters 321 and 210 are in accordance with SB 1289 and noncompliance with the proposed amendments would be investigated and addressed as appropriate by TCEQ's Office of Compliance and Enforcement. No changes have been made in response to this comment.

SUBCHAPTER P: RECLAIMED WATER PRODUCTION FACILITIES

**§§321.301, 321.303, 321.305, 321.307, 321.309, 321.311, 321.313, 321.315, 321.317, 321.319,
321.321, 321.323, 321.325**

Statutory Authority

The Texas Commission on Environmental Quality (commission or TCEQ) adopts these amendments to TCEQ rules under the authority of Texas Water Code (TWC). TWC, §5.013 establishes the general jurisdiction of the commission, while TWC, §5.102 provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §5.103. TWC, §5.103 requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state. TWC, §5.120 requires the commission to administer the law so as to promote judicious use and maximum conservation and protection of the environment and the natural resources of the state. TWC, §26.02715. authorizes disposal of Reclaimed Water without an additional permit under certain conditions.

The amendments implement Senate Bill 1289, 88th Texas Regular Legislative Session (2023), TWC, §§5.013, 5.102, 5.103, 5.120, and 26.02715.

§321.301. Purpose and Applicability.

(a) The purpose of this subchapter is to establish authorization procedures, general design criteria, and operational requirements for reclaimed water production facilities and thereby promote the beneficial use of reclaimed water that may be substituted for potable water or raw water.

(b) This subchapter authorizes a reclaimed water production facility to produce reclaimed domestic wastewater at a site other than a permitted domestic or associated domestic wastewater treatment facility.

(c) A reclaimed water production facility authorized according to this subchapter is not required to hold a wastewater discharge or disposal permit from the commission, except as provided in §210.5 of this title (relating to Authorization for the Use of Reclaimed Water).

(d) A reclaimed water production facility may be authorized under this subchapter if:

(1) the owner of the reclaimed water production facility is also the owner of the associated domestic wastewater treatment facility that is permitted by the commission; or

(2) the owner of the reclaimed water production facility has documented consent, as required in §321.309(d)(11) of this title, from the owner and operator of an associated domestic wastewater treatment facility and, if applicable, the owner of the wastewater collection system to which the reclaimed water production facility is or will be connected.

(e) If the wastewater discharge or disposal permit for the domestic wastewater treatment facility associated with a reclaimed water production facility expires, lapses, is surrendered, suspended, or revoked, the authorization to operate the reclaimed water production facility is automatically cancelled.

§321.303. Definitions.

All definitions in Texas Water Code, §26.001 and 30 TAC Chapters 210 and 305 of this title (relating to Use of Reclaimed Water, and Consolidated Permits) shall apply to this subchapter and are incorporated by reference. Specific definitions of words or phrases used in this subchapter are as follows:

(1) Authorization--a written document issued by the commission allowing an owner to construct and operate a reclaimed water production facility in accordance with the provisions of this subchapter.

(2) Collection System--pipes, conduits, lift stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport domestic wastewater to a wastewater treatment facility, as defined in Chapter 217 of this title (relating to Design Criteria for Domestic Wastewater Systems).

(3) Reclaimed Water Production Facility--a domestic wastewater treatment facility authorized in accordance with this subchapter that treats wastewater for reuse on an as-needed basis and is located at a different location from the domestic or associated domestic wastewater treatment facility.

(4) Treatment unit--Any apparatus necessary for treating wastewater located at the reclaimed water production facility.

§321.305. General Requirements.

(a) An applicant for authorization to produce reclaimed water at a reclaimed water production facility must have:

(1) a domestic wastewater permit for a domestic wastewater treatment facility that is located at the terminus of the collection system to which the reclaimed water production facility is or will be connected; or

(2) documented consent from the owner and operator of the wastewater collection system and associated domestic wastewater treatment facility to which the reclaimed water production facility is or will be connected; and

(3) an authorization to use reclaimed water under Chapter 210 of this title (relating to the Use of Reclaimed Water).

(b) Applications for reclaimed water production facilities and for authorization to beneficially reuse reclaimed water under Chapter 210 of this title may be submitted concurrently.

(c) The authorization for a reclaimed water production facility does not alter the permitted flow or effluent limits of the associated domestic wastewater treatment facility.

(d) If the consent under Section 321.305(a)(2) is withdrawn by the collection system or associated domestic wastewater treatment facility owner(s), the authorization to operate the reclaimed water production facility without an alternate disposal permit is terminated. The

owner or operator of the reclaimed water production facility must provide the executive director with written notice of the withdrawn consent, and confirmation that the reclaimed water production facility has ceased operation within five (5) business days after the owner or operator is notified that the consent has been withdrawn.

§321.307. Restrictions.

(a) A reclaimed water production facility may not discharge pollutants into water in the state without a Texas Pollutant Discharge Elimination System permit.

(b) The hydraulic capacity of the reclaimed water production facilities may not individually nor collectively exceed the permitted hydraulic capacity of the associated domestic wastewater treatment facility.

(c) A reclaimed water production facility may not be authorized at a flow rate that could cause interference with the operation of the associated domestic wastewater treatment facility or a violation of the associated domestic wastewater treatment facility's permit.

(d) A reclaimed water production facility may not treat or dispose of sludge. All sludge must be conveyed through the collection system to the associated domestic wastewater treatment facility, treated, and disposed of in accordance with the associated facility's permit and all applicable rules.

(e) The owner may not accept trucked or hauled wastes at a reclaimed water production facility.

(f) Authorization under this chapter does not convey or alter any property right and does not grant any exclusive privilege.

§321.309. Application Requirements.

(a) An applicant shall comply with the provisions of §§305.42(a), 305.43, 305.44, and 305.47 of this title (relating to Application Required; Who Applies; Signatories to Applications; and Retention of Application Data).

(b) An application for an authorization of a reclaimed water production facility under this subchapter must be made on forms prescribed by the executive director.

(c) An applicant shall submit one original application with attachments to the executive director and one additional copy of the application with attachments to the appropriate regional office. Additional copies may be required as noted in the application.

(d) The application must contain, at a minimum, the following information:

- (1) the applicant's name, mailing address, and telephone number;
- (2) the permit number of the associated domestic wastewater treatment facility;
- (3) a brief description of the nature of the reclaimed water use;
- (4) the signature of the applicant, in accordance with §305.44 of this title;

(5) a copy of a recorded deed or tax records showing ownership, or a copy of a contract or lease agreement between the applicant and the owner of any lands to be used for the reclaimed water production facility;

(6) a copy of the applicant's reuse authorization issued under Chapter 210 of this title (relating to Use of Reclaimed Water), or a copy of a concurrent application;

(7) a design report for the reclaimed water production facility that includes the design flow, design calculations, the size of the proposed treatment units, a flow diagram, and the proposed effluent quality;

(8) a buffer zone map and report indicating how the reclaimed water production facility will meet buffer zone requirements;

(9) a County General Highway Map (with scale clearly shown) to identify the relative location of the domestic wastewater treatment facility, the main lines of the collection system, and the reclaimed water production facility and at least a one-mile area surrounding the reclaimed water production facility;

(10) one original (remainder in color copies, if required) United States Geological Survey 7.5-minute quadrangle topographic map or an equivalent high quality color copy showing the boundaries of land owned, operated or controlled by the applicant and to be used as a part of the reclaimed water production facility. The map shall extend at least a one-mile beyond the facility boundaries and shall be sufficient to show the following:

(A) each well, spring, and surface water body or other water in the state within the one-mile area; and

(B) the general character of the areas adjacent to the facility, including public roads, towns and the nature of development of adjacent lands such as residential, commercial, agricultural, recreational, and undeveloped.

(11) For reclaimed water production facilities seeking coverage for disposal through an associated domestic wastewater treatment facility, copies of the following documented consent must be submitted with the application:

(A) the documented consent from the owner and operator of the associated domestic wastewater treatment facility demonstrating that the facility has capacity to receive discharges of reclaimed water, untreated wastewater, and sludge from the reclaimed water production facility without exceeding or violating any permit requirements in the event that reclaimed water cannot be beneficially reused or the reclaimed water production facility is out of service.

(B) the documented consent from the owner of the collection system to which the reclaimed water production facility is or will be connected, if applicable.

(12) any other information requested by the executive director.

§321.313. Authorization.

(a) The executive director shall not authorize a reclaimed water production facility unless the following conditions are met:

(1) the applicant has obtained plans and specifications approval for the reclaimed water production facility according to the design criteria according to §321.315 of this title (relating to Design Requirements); and

(2) the applicant has an authorization according to Chapter 210 of this title (relating to Use of Reclaimed Water).

(b) The executive director shall not authorize a reclaimed water production facility owned or operated by an applicant that has a compliance history rating of unsatisfactory, as defined by Chapter 60 of this title (relating to Compliance History).

(c) The executive director shall not authorize a reclaimed water production facility that discharges to a domestic or associated domestic wastewater treatment facility that has a compliance history site rating of unsatisfactory, as defined by Chapter 60 of this title.

(d) The applicant, public interest counsel or other persons may file with the Office of the Chief Clerk a motion to overturn the executive director's final action on an authorization for a reclaimed water production facility under §50.139(a), (b), and (d) - (g) of this title (relating to Motion to Overturn Executive Director's Decision).

§321.315. Design Requirements.

(a) Plans and specifications for a reclaimed water production facility must meet the design criteria and the operation, maintenance, and safety requirements in Chapter 217 of this title (relating to Design Criteria for Wastewater Treatment Systems) except for redundant treatment units or processes, including power supplies, if the design incorporates sufficient provisions to ensure the effluent quality meets the required limits in the event of a failure of a power supply or a treatment unit or process.

(b) The reclaimed water production facility must be designed to convey all wastewater to the domestic or associated domestic wastewater treatment facility any time the facility is not in operation.

(c) The reclaimed water production facility must be designed to convey all sludge received or produced by the facility to the domestic or associated domestic wastewater treatment facility. Sludge may be held in an aerated storage vessel for discharge to the collection system if the entire sludge contents are completely discharged at least once within every 24-hour period.

(d) The reclaimed water production facility must be designed and operated to minimize odor and other nuisance conditions.

(e) The following treatment processes and units are prohibited:

(1) unaerated primary treatment units (including Imhoff tanks and primary clarifiers);

(2) trickling filters;

(3) pond or lagoon treatment systems;

(4) flow equalization basins; and

(5) unenclosed screenings storage containers.

§321.319. Public Notice Requirements.

(a) Public notice is not required if an applicant for a reclaimed water production facility qualifies for an enhanced buffer zone designation in accordance with §321.317(d) of this title (relating to Buffer Zone Requirements).

(b) An applicant for a reclaimed water production facility that does not qualify for an enhanced buffer zone designation shall place a sign at the proposed site during the public comment period as defined in subsection (c)(3) of this section.

(1) The sign must include no less than two-inch, black, block-lettering on a white background. The sign must include the following information:

(A) the legal name and address of the applicant;

(B) notice that the applicant has applied for authorization to construct a reclaimed water production facility at the site;

(C) how the public may provide comments to the TCEQ; and

(D) where copies of the application, executive director's technical summary, and draft authorization may be reviewed.

(2) The sign placed at the site shall be located at or near the site main entrance, provided that the sign is legible from the public street. If the sign would not be legible from the public street, then the sign shall be placed within ten feet of a property line paralleling a public street.

(A) The executive director may approve variations if the applicant has demonstrated that it is not practical to comply with the specific sign-posting requirements.

(B) Alternative sign-posting plans proposed by the applicant must be at least as effective in providing notice to the public.

(C) The executive director must approve the variations before signs are posted.

(c) An applicant for a reclaimed water production facility that does not qualify for an enhanced buffer zone designation shall publish notice of the executive director's preliminary determination on the application at least once in a newspaper of general circulation in the county where the reclaimed water production facility is located or adopted to be located. The notice shall be published at the applicant's expense.

(1) The applicant must publish notice no later than 30 days after receiving instructions to publish notice from the Texas Commission on Environmental Quality's (TCEQ's) Office of the Chief Clerk. The notice must include:

(A) the legal name of the applicant and the address of the applicant;

(B) a brief summary of the information included in the application;

(C) the location of the reclaimed water production facility;

(D) the location and mailing address where the public may provide comments to the TCEQ;

(E) the public location or the publicly accessible internet Web site where copies of the application, executive director's technical summary, and authorization may be reviewed;

(F) an opportunity for the public to submit comments on the application and executive director's technical summary; and

(G) instructions to the public on how to request a public meeting for a new reclaimed water production facility.

(2) The applicant must file with the Office of the Chief Clerk no later than 30 days after receiving the instruction to publish the notice of the executive director's preliminary determination on the application, and if applicable the notice of public meeting:

(A) a signed affidavit from the publisher acknowledging that the notice was published and the date of publication; and

(B) a copy of the newspaper clipping.

(3) The public comment period begins on the first date the notice is published and ends 30 days later unless a public meeting is held. If a public meeting is held, the public comment period ends either 30 days after the initial notice is published or at the conclusion of the public meeting, whichever is later.

(4) The public may submit written comments to the Office of the Chief Clerk during the comment period detailing how the application for the reclaimed water production facility fails to meet the technical requirements or conditions of this rule. The executive director will consider all comments received during the comment period.

(5) The public may submit a written request for a public meeting to the Office of the Chief Clerk during the comment period.

(A) The executive director will determine if there is significant interest to hold a public meeting.

(B) If the executive director determines that there is significant interest to hold a public meeting:

(i) TCEQ staff will facilitate the meeting; and

(ii) the applicant will:

(I) arrange accommodations for the public meeting to be held in the county where the reclaimed water production facility will be located; and

(II) publish notice of the public meeting in the same newspaper as the initial notice was published at least 30 days prior to the meeting.

(iii) At the public meeting the applicant will:

(I) describe the proposed reclaimed water production facility and provide maps and other facility data; and

(II) provide a sign-in sheet for attendees to register their names and addresses and furnish the sheet to the executive director.

(C) A public meeting held under this rule is not an evidentiary proceeding.

(6) The TCEQ Office of the Chief Clerk will mail the executive director's decision and final technical summary on which the decision was based to the applicant, persons whose

names and addresses appear legibly on the sign-in sheet from the public meeting, and persons who submitted written comments.

§321.321. Additional Reclaimed Water Production Facility Requirements.

(a) The owner shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater facility operations companies holding a valid license or registration according to the requirements of Chapter 30, Subchapter J of this title (relating to Wastewater Operators And Operations Companies).

(b) The operator or wastewater facility operations company shall have the same level of license or higher as the operator license of the permitted domestic or associated domestic wastewater treatment facility associated with the reclaimed water production facility.

(c) The owner shall notify the executive director at least 45 days prior to completion and at least 45 days prior to operation of a reclaimed water production facility.