

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 10, 2026

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: *cm* Cari-Michel La Caille, Director
Office of Water

Docket No.: 2026-0018-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 309 Domestic Wastewater Effluent Limitation and Plant Siting
Chapter 210 Use of Reclaimed Water
Land Application of Produced Water
Rule Project No.: 2026-006-309-OW

Background and reason(s) for the rulemaking:

This rulemaking is required to implement Senate Bill (SB) 1145, 89th Regular Legislative Session, which amended Texas Water Code (TWC), Chapter 26, Subchapter D, *Prohibition Against Pollution; Enforcement*. Specifically, SB 1145 amended §26.131, *Duties of the Railroad Commission*, transferring permitting authority for the land application of produced water that is treated for beneficial use from the Railroad Commission of Texas (RRC) to the Texas Commission on Environmental Quality (TCEQ or commission) for permit applications filed on or after September 1, 2025.

Scope of the rulemaking:

A.) Summary of what the rulemaking would do: This rulemaking proposes to amend 30 Texas Administrative Code (TAC) Chapter 309, *Domestic Wastewater Effluent Limitations and Plant Siting*, to clarify applicability to produced water under TWC, §26.131, and establish minimum requirements for land application of produced water. This rulemaking also proposes to rename the title of Chapter 309 to *Wastewater Effluent Limitations and Plant Siting*.

The rulemaking also proposes to amend 30 TAC §210.54(a)(5), regarding exceptions to the wastes ineligible for coverage under 30 TAC Chapter 210, Subchapter E, *Special Requirements for Use of Industrial Reclaimed Water*, which are process wastewaters regulated under 40 Code of Federal Regulations (CFR) Parts 400 - 471. The amended paragraph would add process wastewater regulated under 40 CFR Parts 435, *Oil and Gas Extraction Point Source Category*, and 437, *The Centralized Waste Treatment Point Source Category*, as new subparagraphs (J) and (L), respectively.

TCEQ's jurisdiction over facilities seeking authorization to land apply, or otherwise reuse, produced water that has been treated for beneficial use under Chapters 309 or 210 is described under 30 TAC §7.117, *Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)*.

Re: Docket No. 2026-0018-RUL

B.) Scope required by federal regulations or state statutes: This rulemaking is required to implement SB 1145, which amended TWC, §26.131.

C.) Additional staff recommendations that are not required by federal rule or state statute: In addition to the revisions required to implement SB 1145, the amended Chapter 309 would clarify applicability regarding the land application of industrial wastewater, which includes produced water. The minimum requirements for land application of treated effluent established under Chapter 309 have historically been applied to land application of industrial wastewater on the basis of best professional judgement. The amended chapter would also add a reference to 30 TAC §217.302, *Design Criteria for Natural Treatment Systems*, to clarify that the requirements of the section may be applicable and correct the title of two figures.

Statutory authority:

TWC, §5.013, which establishes the general jurisdiction of the commission;
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, 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, §5.105, which authorizes the commission to adopt rules and policies necessary to carry out its responsibilities and duties under the TWC;
TWC, §5.120, which requires the commission to administer the law for the maximum conservation and protection of the environment and natural resources of the state;
TWC, §26.027, which authorizes the commission to issue permits for the discharge of waste or pollutants into or adjacent to water in the state;
TWC, §26.121, which provides the commission's authority to prohibit unauthorized discharges into or adjacent to water in the state; and
TWC, §26.131, which provides the commission's authority to issue permits for the discharge of produced water into water in the state and for the land application of produced water.

Effect on the:

A.) Regulated community: This rulemaking is not expected to affect the regulated community. Upon full implementation of SB 1145, the regulated community will be required to seek authorization for discharges adjacent to surface water in the state of produced water (as defined in 30 TAC §305.541(b)) that is treated for beneficial use from TCEQ rather than from RRC.

B.) Public: Like other land application authorizations, there may be concerns from adjacent landowners about air quality, odor, and/or well-water contamination from the land application site.

C.) Agency programs: Upon full implementation of SB 1145, the Water Quality Division (WQD) will review and process permit applications for land application of produced water resulting from certain oil and gas activities. Additionally, the Office of Compliance and Enforcement will be required to conduct investigations to determine compliance with the wastewater permits; address violations in follow-up investigations; and manage any other

Re: Docket No. 2026-0018-RUL

agency responses needed for complaints, emergency response, waste management, or other actions within the agency's authority.

Planned Stakeholder involvement:

Regular updates will be provided at the quarterly Water Quality Advisory Work Group (WQAWG) meetings hosted by WQD. Outreach emails will also be sent to the WQAWG stakeholder group regarding the rulemaking, soliciting comments and input on the suggested rule revisions. A public hearing will be held in Austin during the comment period for the rulemaking.

Public Involvement Plan

A Public Involvement Plan is required.

Alternative Language Requirements

There are alternative language requirements for this rulemaking. The notice for this state-wide rulemaking will be published in Spanish.

Potential controversial concerns and legislative interest:

State legislators, the regulated community, and nongovernmental organizations may be interested in the implementation of SB 1145.

Would this rulemaking affect any current policies or require development of new policies?

TCEQ may need to develop new policies as a result of this rulemaking, because the program is new to TCEQ.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Rulemaking is required by SB 1145. If this rulemaking doesn't go forward, TCEQ would not be compliant with state statute.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: April 30, 2026

Anticipated *Texas Register* publication date: May 15, 2026

Anticipated public hearing date: June 15, 2026

Anticipated public comment period: May 15, 2026 - June 16, 2026

Anticipated adoption date: August 2026

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Attachments:

SB 1145

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Commissioners
Page 4
April 10, 2026

Re: Docket No. 2026-0018-RUL

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