

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** July 24, 2026

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

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

Docket No.: 2026-0283-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 205 General Permits for Waste Discharges
Compliance History
Rule Project No. 2026-016-205-OW

Background and reason(s) for the rulemaking:

This rulemaking is required to implement Senate Bill (SB) 1302, 89th Regular Legislative Session and to continue to implement House Bill (HB) 2694, 82nd Regular Legislative Session.

- SB 1302 amended Texas Water Code (TWC), §26.040 to: (1) add paragraph (h-1) which states that if an authorization under a general permit is denied or suspended by the commission due to an “Unsatisfactory” compliance history rating on or after September 1, 2025, then the entity may not be eligible to discharge under a general permit until the executive director (ED) actively authorizes the discharger to use the general permit; and (2) add paragraph (h-2) which prohibits the ED from using an automated process to approve or authorize an application under a general permit following the denial or suspension of a general permit authorization ordered on or after September 1, 2025, due to an “Unsatisfactory” CH rating.
- HB 2694 amended TWC, Chapter 26, Subchapter B, General Powers and Duties, specifically §26.040, General Permits, revising subsection (h) regarding that the commission, after hearing, shall deny or suspend a discharger's authority to discharge under a general permit if discharger's compliance history is unsatisfactory. While in practice the ED has implemented the statutory changes required by HB 2694 since the 82nd legislature, a decision was made to incorporate these minor changes into Chapter 205 at a subsequent rulemaking (i.e., this rulemaking).

Scope of the rulemaking:

A.) Summary of what the rulemaking would do: The rulemaking would amend 30 Texas Administrative Code (TAC) Chapter 205, General Permits for Waste Discharges. Specifically, it would revise §205.4 to clarify that: (1) the ED shall deny authorization to discharge under an existing general permit if the discharger has an unsatisfactory compliance history rating; (2) once a discharger authorized under a general permit has been denied an authorization, the discharger is not eligible for a general permit again until the ED actively authorizes the discharger to use the

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general permit; and (3) an automated process cannot be used to approve an application under a general permit following the denial or suspension of an authorization.

B.) Scope required by federal regulations or state statutes: This rulemaking is required to implement SB 1302, which amended TWC, §26.040.

C.) Additional staff recommendations that are not required by federal rule or state statute: None.

Statutory authority:

TWC, §26.121, which makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission.

TWC, §26.027, which authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state; and

TWC, §26.040, which provides the commission with authority to amend rules to authorize waste discharges by general permit.

Effect on the:

A.) Regulated community: This rulemaking is expected to affect the regulated community. Entities that have already been denied an application under a general permit or had a general permit authorization suspended due to an unsatisfactory compliance history rating, but subsequently regain a satisfactory compliance history rating, will not be eligible to automatically obtain approval under a general permit. Once the compliance history rating is satisfactory, and the entity requests to get coverage under a general permit, the applications for these entities will need to be manually reviewed and processed for approval by TCEQ staff. During the renewal period for the general permits with a significant number of authorizations, the manual review of applications may delay application processing.

B.) Public: There are no expected impacts to the public.

C.) Agency programs: Manual review of applications may impact permit processing timeframes but are not expected to have a fiscal impact. If more regulated entities are affected, there may be an increased demand for staff resources, especially during renewal periods.

Stakeholder meetings:

Regular updates will be provided at the quarterly Water Quality Advisory Work Group meetings hosted by the Water Quality Division. A public hearing will be held in Austin during the comment period for the rulemaking. Updates were also provided at the May 19 - 20, 2026, TCEQ Environmental Trade Fair and Conference in San Antonio.

Public Involvement Plan

Yes

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 environmental organizations may be interested in the implementation of SB 1302.

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

There are no anticipated effects on current policies or development of new policies. This rulemaking will require procedural changes, such as the manual review of permit applications under a general permit that were previously approved electronically by the ePermits system.

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

Rulemaking implements SB 1302 by ensuring TCEQ rules are consistent with TWC.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: August 12, 2026

Anticipated *Texas Register* publication date: August 28, 2026

Anticipated public hearing date: September 28, 2026

Anticipated public comment period: August 28, 2026 to September 29, 2026

Anticipated adoption date: January 2027

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Attachments:

HB 2694

SB 1302

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