



July 16, 2026

Texas Commission on Environmental Quality

Via [Smart Comment portal](#)

RE: Proposed Improvements to TCEQ Rules

To the Texas Commission on Environmental Quality:

On behalf of Bayou City Waterkeeper, we submit these comments regarding the Texas Commission on Environmental Quality's (TCEQ) proposed rule revisions. Our organization's mission centers on the preservation of clean water, healthy environment, and resilient communities across the lower Galveston Bay watershed. We offer these comments to ensure that proposed changes do not inadvertently degrade water quality standards, restrict public transparency, or erode vital protections for local ecosystems.

General Concerns

Our primary concern across these chapters is the preservation of public participation and transparency. Several proposed revisions replace explicit procedural and notification requirements with bare statutory cross-references (such as in Chapters 205 and 311). While intended to streamline the administrative code, removing explicit text increases the burden on the public. Affected community members must now cross-reference multiple legal frameworks to understand how and when they can participate in the permitting process, creating a practical barrier to engagement.

Additionally, TCEQ must act to prevent water quality degradation across all permitting programs. Proposed changes that create automatic permit exemptions or narrow the scope of review for added wastestreams risk introducing unmonitored pollutants into already impaired water bodies. Administrative efficiency must not come at the expense of anti-degradation reviews or watershed protections.

Finally, we emphasize the urgent need to break down administrative silos and align regulatory mechanisms with the Texas Water Development Board (TWDB). Across several chapters in this package such as Chapters 210, 288, and 295, TCEQ is proposing to weaken or simplify requirements. This runs directly counter to the clear intent of the 89th Texas Legislature. Through landmark legislation like SB 7 (89R), which authorizes massive investments in water infrastructure and requires close coordination between TWDB and TCEQ, lawmakers have demanded that state water funding, regional planning, and regulatory permitting operate in tandem. TCEQ must maintain and strengthen these rules to ensure that compliance data is perfectly consistent with TWDB's planning and funding frameworks.

Specific Concerns

Chapter 21: Water Quality Fees

Regarding the proposed changes to 30 TAC § 21.4(d), which currently requires a new permittee taking over a TPDES permit to pay any outstanding water quality fees from the prior permittee, TCEQ proposes giving the Executive Director discretion to waive these delinquent fees if the new permittee is a receiver for the utility.

We support the proposed amendment to grant the Executive Director fee-waiver discretion, as it reduces administrative and financial barriers for entities stepping in to manage failing utilities in receivership. However, the rule language should be narrowly scoped to ensure this waiver is tightly restricted to court-appointed receiverships and emergency takeover situations, preventing it from being exploited by non-compliant operators.

Chapter 205: General Permits for Waste Discharges

In 30 TAC §§ 205.2, 205.3, and 205.5, TCEQ proposes repealing explicit rule text governing public notice, public meetings, and public comment procedures for general permits, replacing them with bare citations to the Texas Water Code to "reduce duplication". We strongly oppose the removal of explicit procedural requirements for public notice and comment. Replacing functional rules with statutory citations dilutes transparency and makes the public participation process more difficult for affected communities to navigate. We request that TCEQ release a clear public redline of these sections and maintain the explicit procedural instructions within the rule text.

Chapter 210: Use of Reclaimed Water

Concerning proposed amendments to 30 TAC §§ 210.53(a), 210.55, 210.56(d)(1)(A), and 210.81–210.85, TCEQ proposes to automatically authorize TPDES permit holders to use industrial reclaimed water on-site without amending their permit or obtaining a separate Chapter 210 authorization. Proposed rules also attempt to streamline graywater regulations to reduce complexity.

Under the provisions of SB 7 (89R), the Legislature mandated that the TWDB and TCEQ coordinate closely to standardize water conveyance, reuse, and system interoperability. In order to support this legislative directive and protect public health, TCEQ must not retreat to regulatory silos; it must maintain a streamlined registration checkpoint under Chapter 210 so that state-funded alternative water portfolios are backed by active water-quality tracking and verification. For graywater, the state must maintain clear, standardized safety and compliance mechanisms rather than shifting administrative and water-quality testing liabilities onto local jurisdictions.

Chapter 285: On-site Sewage Facilities

Regarding updates proposed to modernize design standards, soil/groundwater evaluations, and OSSF placement in floodplains under 30 TAC §§ 285.1, 285.30–285.34, 285.37, and

285.65, we support the modernization of this chapter to address newer technologies, efficient water-saving devices, and modernized site evaluations. Specifically, we support the proposed enforcement update in § 285.65 allowing the suspension of Designated Representatives who fail to investigate complaints, as this strengthens local oversight and accountability.

Chapter 288: Water Conservation & Drought Contingency Plans

We strongly oppose the reduction of specificity in Chapter 288. Robust conservation goals require highly detailed, accurate local planning data. Instead of reducing specificity, TCEQ should update rules to require stronger water conservation measures (such as stronger rate-structure signals), clarify local plan enforcement protocols, and add specific reporting for alternative water portfolios. Drought Contingency Plans should also require clear procedures for enforcing mandatory water reductions in compliance with SB 2662 (89R), which targeted water-use enforcement gaps among investor-owned utilities.

Furthermore, reducing specificity at this juncture directly undermines recent legislative directives from the 89th Legislature aimed at forcing stronger alignment and data consistency between the TCEQ and TWDB. Through initiatives like SB 7, the Legislature has made it clear that state water funding, regional planning, and regulatory permitting must operate in tandem, rather than in administrative silos. To achieve this legislative intent, TCEQ must maintain and strengthen the specificity of Chapter 288 to ensure that the water conservation and drought data utilities submitted to TCEQ for water rights compliance is perfectly consistent with the water loss audits and conservation reports submitted to the TWDB. Simplifying or weakening these rules will only widen the regulatory disconnect between the two agencies, muddying the data and jeopardizing the state's long-term water security goals.

Chapter 295: Procedural Water Rights

Regarding the proposed updates to return flow rules in 30 TAC § 295.8, we support these updates to facilitate indirect reuse permitting in line with Texas Water Code § 11.046. This coordination is critical in light of the passage of SB 7, authorizing a direct \$2 million transfer from TWDB to TCEQ specifically to fund staff and eliminate the notorious permitting bottleneck for state-funded water reuse and supply projects.

Armed with these legislative resources, TCEQ has no excuse to cut environmental coordination corners. Therefore, we oppose dropping the 30-day notice to TPWD and OPIC under § 295.161(c). TCEQ must utilize its newly funded administrative capacity to process permits efficiently while retaining vital institutional notifications that protect environmental flows

Chapter 297: Substantive Water Rights

Under 30 TAC § 297.1(26), TCEQ proposes dividing the definition of "instream use" to separate environmental flow needs from other non-consumptive uses. We oppose the

subdivision of "instream use" if it reduces the regulatory weight, structural clarity, or priority of environmental flow protections. We recommend that TCEQ maintain a unified, holistic definition of "instream use" that fully integrates environmental flow protection that includes fish and wildlife habitat preservation and water quality enhancement as an intrinsic, non-severable component of all instream water rights. If TCEQ proceeds with dividing this definition, the rules must explicitly state that environmental flow protections hold equal regulatory weight to, and cannot be subordinated by other non-consumptive instream uses such as navigation or industrial operations.

Furthermore, decoupling environmental flows from the broader category of instream use must not be used as an administrative loophole to ease the permitting of seawater diversions or other massive water projects in our sensitive coastal areas. This protection is especially critical given the [official joint determination formally transmitted to TCEQ by the GLO and TPWD under HB 2031 \(84R\)](#), which established that sensitive semi-enclosed bays are highly vulnerable to localized salinity spikes and marine life damage. That study made it clear that to protect local fisheries, water intakes should be kept offshore in the Gulf, restricted to flow-through speeds below 0.5 feet per second, and thoroughly studied to prevent sucking in tiny marine life. If TCEQ weakens the definition of instream use in § 297.1(26), it undermines the environmental baselines that protect these delicate estuarine ecosystems from such impacts.

Chapter 305: Consolidated Permits

Regarding 30 TAC § 305.62, we support separate clarifications for major and minor permit amendments. However, we strongly oppose the provision allowing facilities to add new wastestreams without a permit amendment. "Benign" is not defined in the current rules, and these new wastestreams can introduce un-evaluated pollutants that threaten water quality limits. At a minimum, TCEQ must require public notice and formal confirmation that added wastestreams will not exacerbate water quality impairments in 303(d) listed segments. Furthermore, TCEQ's broader push under Chapter 305 to streamline permit modifications and reduce administrative oversight directly threatens municipal accountability for Sanitary Sewer Overflows (SSOs). Locally, the City of Houston continues to suffer from chronic, severe SSO violations that discharge raw sewage into our neighborhoods and bayous. Instead of relaxing permit amendment rules or easing administrative processes for dischargers, TCEQ must use Chapter 305 to strengthen enforcement mechanisms, increase transparency, and mandate stricter compliance tracking for major municipal systems. We reject any amendments to Chapter 305 that decrease regulatory scrutiny or make it easier for non-compliant municipal operators to modify their operations without rigorous public review and direct state accountability.

Chapter 311: Watershed Protection Rules

TCEQ proposes repealing explicit definitions and applicability language under 30 TAC §§ 311.71–311.72 to eliminate duplication with state statute. We provide conditional support for this update, pending a complete redline review of the text being removed. Because

watershed protection and runoff applicability rules are critical for protecting local bayous and floodplains, TCEQ must verify that replacing rule language with statutory citations will not inadvertently weaken localized watershed protections.

Chapter 319: General Regulations Incorporated into Permits - Hazardous Metals

Under 30 TAC §§ 319.22–319.29, TCEQ proposes repealing sections establishing quality levels for hazardous metals in inland and tidal waters on the grounds that they predate modern water quality standards and are obsolete. While we acknowledge that these historical standards are obsolete, we oppose their outright repeal unless TCEQ concurrently establishes modern, active, and updated limits on hazardous metals. TCEQ should ensure that modernized limits are established using the framework outlined in the [Procedures to Implement the Texas Surface Water Quality Standards](#) to prevent a regulatory gap regarding toxic metal discharges into public waterways.

Conclusion

Bayou City Waterkeeper urges TCEQ to prioritize science-based environmental protections and maintain transparent and accessible public participation pathways. We thank you for your consideration of these comments and look forward to working with you to preserve the integrity of our regional watersheds. Thank you for your consideration. Please do not hesitate to contact Guadalupe Fernandez at guadalupe@bayoucitywaterkeeper.org or Usman Mahmood at usman@bayoucitywaterkeeper.org with any questions or concerns.

Respectfully,

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