



TEXAS OIL & GAS ASSOCIATION | SINCE 1919

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Chairman

D. Todd Staples  
President

June 16, 2026

Electronically via TCEQ's Online Public Comments System

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Gwen Ricco - MC 205  
Office of Legal Services  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

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

The Texas Oil & Gas Association (TXOGA) is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces approximately 90 percent of Texas' crude oil and natural gas and operates the vast majority of the state's refineries and pipelines. In fiscal year 2025, the Texas oil and natural gas industry supported over 495,500 direct jobs and paid over \$27 billion in state and local taxes and state royalties, funding our state's schools, roads and first responders.

TXOGA commends the Texas Commission on Environmental Quality (TCEQ) for promptly proposing a realistic framework to implement SB 1145, 89<sup>th</sup> Legislature Regular Session, which amended Texas Water Code, Section 26.131, to transfer permitting authority for the land application of produced water that is treated for beneficial use from the Railroad Commission of Texas to the TCEQ. Overall, we are supportive of the proposed changes to Chapter 210. TXOGA strongly recommends that Chapter 309 scope be modified to prevent unanticipated consequences for industrial wastewater treatment operations.

Chapter 309 was drafted to apply specifically to direct discharge and land application of treated domestic wastewater. The chapter clearly includes provisions and references to other sections of the TCEQ regulations that only apply to domestic wastewater. Conversely, industrial wastewater and produced water are regulated in a very different manner than domestic wastewater and already have very different existing TCEQ regulations that are applicable to them. Wholesale use of the chapter for industrial wastewater and produced water without very clearly eliminating the sections and provisions that do not apply to management, treatment and disposal of industrial wastewater will have serious unintended consequences for industrial and produced water treatment facilities and potentially result in an economic impact to affected facilities.

SB 1145 only applies to land application of treated produced water. TXOGA understands that the TCEQ seeks through this revision to Chapter 309 to address land application of industrial wastewater in addition to land application of treated produced water. However, TXOGA requests that the TCEQ closely evaluate

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all revisions to Chapter 309 prior to their promulgation to ensure that the revisions only apply to land application of treated industrial wastewater and treated produced water and do not inadvertently add any domestic wastewater requirements to those activities. TXOGA requests that the TCEQ ensure that Chapter 309 as revised has no unintended consequences that add any requirements for direct dischargers of treated produced water or direct dischargers of primarily industrial wastewater. The revisions should also be vetted to ensure that they do not inadvertently apply to land application of industrial wastewater to the extent that the treated wastewater is used for dust suppression or on-site landscaping as opposed to larger scale irrigation practices (e.g., of crops or forage land).

In the alternative, and in order to minimize the adverse impacts of retrofitting Chapter 309 to cover land application of produced water without cautioned precision, TCEQ should limit applicability of changes to sections of Chapter 309 that do not pertain to domestic wastewater to land application of industrial wastewater, other than produced water, and create a completely separate chapter in Title 30, Texas Administrative Code, involving produced water, to ensure the land application of produced water is afforded particularized attention in regulation.

One particular concern TXOGA has in Chapter 309 amendments relates to the proposed language defining produced water in Section 309.11(9) by referencing Section 305.541(b). The definition of produced water from Section 305.541(b) states "For the purposes of the commission's implementation of Texas Water Code, §26.131, 'produced water' is defined as all wastewater associated with oil and gas exploration, development, and production activities, except hydrostatic test water and gas plant effluent, *that is discharged into water in the state*, including waste streams regulated by 40 CFR Part 435." The concern here is the part of the definition that specifically mentions discharges into water in the state. Using a definition for land application (which is by definition not discharged into water in the state) that references discharge could create an inconsistency within the rules.

It might be more appropriate to provide a definition in Section 309.11 that uses some of the language from the existing definition in Section 305.541(b) to read as follows.

(9) Produced water -- For the purposes of the commission's implementation of Texas Water Code, §26.131(e), all wastewater associated with oil and gas exploration, development, and production activities, except hydrostatic test water and gas plant effluent, that has been treated for beneficial reuse and is land applied.

TXOGA understands that the TCEQ and Texas Railroad Commission may not have resolved which agency has jurisdiction over surface impoundments associated with land application of treated produced water. TXOGA requests that the TCEQ acknowledge that the issue regarding such jurisdiction will be set out in a Memorandum of Understanding that may soon be proposed by the agencies. That acknowledgement would address concerns TXOGA has with the wording of current Chapter 309 related to surface impoundments.

Further, TXOGA understands that the water quality standards will be evaluated on a case-by-case basis, and we are supportive of this approach. Each project is unique, and providing reasonable, risk-based requirements and considerations to each project is important.

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Finally, we request acknowledgement that this proposed rulemaking does not alter spill reporting obligations, which will continue to be directed to the RRC, except when an unauthorized discharge of wastewater into or adjacent to water in the state would be reported to TCEQ as an element of the TPDES or TLAP permit requirements.

TXOGA looks forward to working with the Commission in the rulemaking and full implementation of SB 1145.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Pomeroy".

Cory Pomeroy  
Vice President & General Counsel  
Texas Oil and Gas Association