

By: Zwiener

H.B. No. 4524

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the adoption of rules by the Texas Commission on
3 Environmental Quality regarding the discharge into water in this
4 state of produced water resulting from certain oil and gas
5 activities.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 26.131, Water Code, as effective until
8 delegation of authority under the Resource Conservation and
9 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) to the
10 Railroad Commission of Texas, is amended by amending Subsection (d)
11 and adding Subsection (e) to read as follows:

12 (d) The commission may issue permits for the discharge into
13 water in this state of produced water, hydrostatic test water, and
14 gas plant effluent resulting from the activities described by
15 Subsection (a) on delegation to the commission of NPDES authority
16 for those discharges. The discharge of produced water, hydrostatic
17 test water, and gas plant effluent into water in this state under
18 this subsection must meet the water quality standards established
19 by the commission, including the standards established under
20 Subsection (e).

21 (e) The commission shall adopt rules governing the
22 discharge, handling, treatment, and disposition of produced water
23 resulting from the activities described by Subsection (a). Rules
24 adopted under this section must:

1 (1) be based on the best available science and
2 technology;

3 (2) impose standards that exceed the minimum standards
4 established by 40 C.F.R. Parts 435 and 437, as those provisions
5 existed on January 15, 2021;

6 (3) prohibit a discharge of untreated produced water
7 into water in this state;

8 (4) prohibit a discharge of treated produced water
9 into water in this state unless the commission determines that the
10 discharge will not result in water pollution, including a violation
11 of anti-degradation standards;

12 (5) prohibit a discharge of treated produced water to
13 impaired state waters, unless advanced and secondary treatment
14 standards can be implemented that will prevent further degradation
15 of the impaired water;

16 (6) require a person who proposes to discharge treated
17 produced water, or to treat produced water for activities unrelated
18 to oil or gas operations, to provide to the commission for public
19 disclosure the water contaminants in the untreated produced water,
20 including constituents added for oil or gas drilling or production;
21 and

22 (7) require a thorough characterization of all
23 contaminants present in the produced water, including the
24 contaminants' toxicity, mobility, radioactivity, and propensity to
25 bioaccumulate.

26 SECTION 2. Section 26.131, Water Code, as effective upon
27 delegation of authority under the Resource Conservation and

1 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) to the
2 Railroad Commission of Texas, is amended by amending Subsection (c)
3 and adding Subsection (d) to read as follows:

4 (c) The commission may issue permits for the discharge into
5 water in this state of produced water, hydrostatic test water, and
6 gas plant effluent resulting from the activities described by
7 Subsection (a) on delegation to the commission of NPDES authority
8 for those discharges. The discharge of produced water, hydrostatic
9 test water, and gas plant effluent into water in this state under
10 this subsection must meet the water quality standards established
11 by the commission, including the standards established under
12 Subsection (d).

13 (d) The commission shall adopt rules governing the
14 discharge, handling, treatment, and disposition of produced water
15 resulting from the activities described by Subsection (a). Rules
16 adopted under this section must:

17 (1) be based on the best available science and
18 technology;

19 (2) impose standards that exceed the minimum standards
20 established by 40 C.F.R. Parts 435 and 437, as those provisions
21 existed on January 15, 2021;

22 (3) prohibit a discharge of untreated produced water
23 into water in this state;

24 (4) prohibit a discharge of treated produced water
25 into water in this state unless the commission determines that the
26 discharge will not result in water pollution, including a violation
27 of anti-degradation standards;

1 (5) prohibit a discharge of treated produced water to
2 impaired state waters, unless advanced and secondary treatment
3 standards can be implemented that will prevent further degradation
4 of the impaired water;

5 (6) require a person who proposes to discharge treated
6 produced water, or to treat produced water for activities unrelated
7 to oil or gas operations, to provide to the commission for public
8 disclosure the water contaminants in the untreated produced water,
9 including constituents added for oil or gas drilling or production;
10 and

11 (7) require a thorough characterization of all
12 contaminants present in the produced water, including the
13 contaminants' toxicity, mobility, radioactivity, and propensity to
14 bioaccumulate.

15 SECTION 3. (a) Not later than September 1, 2022, the
16 commission shall adopt rules required by Section 26.131, Water
17 Code, as amended by this Act.

18 (b) Rules adopted under Section 26.131, Water Code, as
19 amended by this Act, become effective on the effective date of
20 delegation of National Pollutant Discharge Elimination System
21 permit authority for discharges of produced water to the Texas
22 Commission on Environmental Quality by the United States
23 Environmental Protection Agency under Section 402(b) of the Federal
24 Water Pollution Control Act (33 U.S.C. Section 1342(b)).

25 SECTION 4. This Act takes effect September 1, 2021.