

US EPA ARCHIVE DOCUMENT

Historical Note

The 1985 amendment renumbered and in subsec. (a) substituted "commission" for "board", "adopt" for "make", "its" for "the" and deleted "the provisions of" after "and duties under"; in subsec. (b) inserted the first sentence, in the resulting second sentence deleted "and the commission" after "The executive director", and substituted "commission" for "board" and "he considers" for "they consider"; and in subsec. (c) substituted "by" for "in".

Section 10.002 of the 1985 Act provides:

"The rules required to be adopted by Sections 5.103 and 6.101, Water Code, must be adopted and in force not later than January 1, 1986. All rules of the Texas Department of Water Resources that are in effect on September 1, 1985 shall remain in effect until the Texas Water Commission and the Texas Water

Development Board adopt new rules for their areas of responsibility."

Derivation:

Acts 1957, 55th Leg., p. 1268, ch. 425, §§ 19, 21-a(13), added by Acts 1963, 58th Leg., p. 73, ch. 49, § 2.
Acts 1965, 59th Leg., p. 587, ch. 297, § 9.
Acts 1967, 60th Leg., p. 745, ch. 313.
Acts 1969, 61st Leg., p. 2229, ch. 760, § 1.
Acts 1969, 61st Leg., p. 2267, ch. 764, §§ 1, 2.
Vernon's Ann.Civ.St. art. 7621d-1, § 3.09; art. 8280-9, §§ 12(q), 19.
Acts 1971, 62nd Leg., ch. 58, § 1, enacted as V.T.C.A. Water Code, §§ 11.025 and 21.069.
Acts 1977, 65th Leg., p. 2207, ch. 870, § 1. V.T.C.A. Water Code, former § 5.131.

Administrative Code References

Water Commission, see 31 TAC § 261.1 et seq.

Law Review Commentaries

Effective participation in adjudicatory and legislative functions of Texas environmental agencies. W. Thomas Buckle, 9 St. Mary's L.J. 789 (1978).

Library References

States 66.
C.J.S. States § 120 et seq.

Notes of Decisions

Certificates of obligation 2
Discretion 1

1. Discretion

The Texas Water Quality Board is given broad discretion to issue rules and regulations governing proceedings before it for permits and orders and may require, as a condition to the issuance of a permit, that a feedlot owner submit evidence to establish that his operation will not cause wastes to pollute ground or surface waters. Op.Atty.Gen.1973, No. H-64.

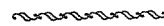
2. Certificates of obligation

The Texas Water Development Board and the Texas Water Quality Board could not amend their joint rules and regulations to authorize the purchase of certificates of obligation except in those instances where the proceeds were to be used for the purpose enumerated in Vernon's Ann.Civ.St. art. 2368a.1, § 7 (repealed; see, now, V.T.C.A. Local Government Code, §§ 271.051, 271.056). Op.Atty.Gen. 1972, No. M-1157.

§ 5.104. Memoranda of Understanding

(a) The commission and board by rule shall develop memoranda of understanding as necessary to clarify and provide for their respective duties, responsibilities, or functions on any matter under the jurisdiction of the commission or board that is not expressly assigned to either the commission or board.

Vernon's
TEXAS CODES
ANNOTATED



Volume 1

WATER CODE

Sections 1.001 to 25

2000

Cumulative Annual Pocket Part

Replacing 1999 pocket part supplementing 1988 main volume

For Use In 1999-2000

Includes
Laws through the 1999 Regular Session
of the 76th Legislature
Court Constructions through 993 S.W.2d 897



WEST GROUP

WATER ADMINISTRATION Title 2

nsent provision prescribed by this Act
agency or another governmental entity
t if another law enacted by the 72nd
1st Called Session, 1991:

olishes the agency or entity;

peals the sunset provision for the agen-
ty; or

anges the agency or entity from an
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o an entity primarily advisory in na-

islation

6.02 of Acts 1999, 76th Leg., ch. 1449

Water Development Board; Texas Natu-
re Conservation Commission. If the
lvisory Commission includes a study of
er districts in its review of the Texas
velopment Board or the Texas Natural
Conservation Commission for the 77th
e, to minimize duplication the commis-
sion closely coordinate with any interim legis-
lative committees also studying groundwater dis-

CONSERVATION COMMISSION

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Aug. 12, 1991.

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WATER ADMINISTRATION Title 2

Historical and Statutory Notes

1993 Legislation

The 1993 amendment, in subsec. (a), added "to
represent the general public".

Library References

General provisions, history of state administra-
tion, see Brooks, 36 Texas Practice § 46.3.

Notes of Decisions

Residence 1

1. Residence

Subsection (b) of this section, which provides
that the Governor shall appoint members of the

Water Commission so that "each member is from a
different section of the state" does not establish an
enforceable requirement and need not be followed.
Op.Atty.Gen.1988, No. JM-877.

§ 5.053. Eligibility for Membership

Text of section effective upon delegation of NPDES permit authority

(a) A person is not eligible to serve on the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other
organization regulated by the commission or receiving funds from the commission;

(2) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a
business entity or other organization regulated by the commission or receiving funds from
the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the
commission.

(b) In addition to the eligibility requirements in Subsection (a) of this section, persons who
are appointed to serve on the commission for terms which expire after August 31, 2001, must
comply at the time of their appointment with the eligibility requirements established under 33
U.S.C. Sections 1251-1387, as amended.

Added by Acts 1995, 74th Leg., ch. 310, § 1, eff. Aug. 28, 1995.

*For text of section effective until delegation of NPDES permit authority, see
§ 5.053 in main volume*

Historical and Statutory Notes

1995 Legislation

Section 1 of the 1995 Act provides that this
section is added "effective upon delegation of
NPDES permit authority".

SUBCHAPTER D. GENERAL POWERS AND DUTIES OF THE COMMISSION

§ 5.102. General Powers

Cross References

Motor vehicle repair facilities, registration with
commission, see Vernon's Ann.Civ.St. art. 9028.

§ 5.103. Rules

(a) The commission shall adopt any rules necessary to carry out its powers and duties
under this code and other laws of this state.

(b) The commission shall adopt reasonable procedural rules to be followed in a commission
hearing. The executive director may recommend to the commission for its consideration any
rules that he considers necessary.

(c) Rules shall be adopted in the manner provided by Chapter 2001, Government Code. As provided by that Act, the commission must adopt rules when adopting, repealing, or amending any agency statement of general applicability that interprets or prescribes law or policy or describes the procedure or practice requirements of an agency. The commission shall follow its own rules as adopted until it changes them in accordance with that Act. Amended by Acts 1993, 73rd Leg., ch. 802, § 1, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 76, § 5.95(49), eff. Sept. 1, 1995.

Historical and Statutory Notes

1993 Legislation

The 1993 amendment, in subsec. (c), added the second and third sentences.

Section 7 of the 1993 amendatory act provides:

"Section 5.103, Water Code, as amended by this Act, applies to all rules of the Texas Water Commission in existence on the effective date of this Act and to all rules of the Texas Water Commis-

sion or the Texas Natural Resource Conservation Commission adopted after that date."

1995 Legislation

The 1995 amendment, in subsec. (c), substituted "Chapter 2001, Government Code" for "the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)".

§ 5.1035. Rules Regarding Drinking-Water Standards

Before adopting rules regarding statewide drinking-water standards, the commission shall hold public meetings, if requested, at its regional offices to allow municipalities, water supply corporations, and other interested persons to submit data or comments concerning the proposed drinking-water standards.

Added by Acts 1997, 75th Leg., ch. 1010, § 4.41, eff. Sept. 1, 1997.

§ 5.104. Memoranda of Understanding

Administrative Code References

Natural Resource Conservation Commission, industrial solid waste and municipal hazardous

waste, adoption of memoranda of understanding by reference, see 30 TAC § 335.28.

§ 5.109. Chief Clerk

(a) The commission shall appoint a chief clerk who shall serve at the will of the commission.

(b) The chief clerk shall assist the commission in carrying out its duties under this code and other law.

(c) The chief clerk shall issue notice of public hearings held under the authority of the commission.

Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.009, eff. Aug. 12, 1991.

Historical and Statutory Notes

1991 Legislation

The 1991 amendment, in subsec. (b), added "and other law".

§ 5.115. Persons Affected in Commission Hearings; Notice of Application

(a) For the purpose of an administrative hearing held by or for the commission involving a contested case, "affected person," or "person affected," or "person who may be affected" means a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing. An interest common to members of the general public does not qualify as a personal justiciable interest. The commission shall adopt rules specifying factors which must be considered in determining whether a person is an affected person in any contested case arising under the air, waste, or water programs within the commission's jurisdiction and whether an affected association is entitled to standing in contested case hearings.

(b) At the time an application for a permit or license under this code is filed with the executive director and is administratively complete, the commission shall give notice of the application to any person who may be affected by the granting of the permit or license.

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