WATER CODE

TITLE 2. WATER ADMINISTRATION

SUBTITLE D. WATER QUALITY CONTROL

CHAPTER 27. INJECTION WELLS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. SHORT TITLE. This chapter may be cited as the Injection Well Act.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Executive director" means the executive director of the commission.

(3) "Railroad commission" means the Railroad Commission of Texas.

(4) "Pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that makes it harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(5) "Industrial and municipal waste" means any liquid, gaseous, solid, or other waste substance, or combination of these substances, which may cause or might reasonably be expected to cause pollution of fresh water and which result from:

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(A) processes of industry, manufacturing, trade, or business;

(B) development or recovery of natural resources other than oil or gas; or

(C) disposal of sewage or other wastes of cities, towns, villages, communities, water districts, and other municipal corporations.

(6) "Oil and gas waste" means waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources, waste arising out of or incidental to the underground storage of hydrocarbons other than storage in artificial tanks or containers, or waste arising out of or incidental to the operation of gasoline plants, natural gas processing plants, or pressure maintenance or repressurizing plants. The term includes but is not limited to salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste material.

(7) "Fluid" means a material or substance that flows or moves in a liquid, gaseous, solid, semi-solid, sludge, or other form or state.

(8) "Fresh water" means water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(9) "Casing" means material lining used to seal off strata at and below the earth's surface.

(10) "Disposal well" means an injection well that is used for the injection of industrial and municipal waste or oil and gas waste.

(11) "Injection well" means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well used for the

injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste.

(12) "Extraction of minerals" means the use of an injection well for the development or recovery of natural resources other than resources subject to the jurisdiction of the railroad commission, and includes solution mining of minerals, in situ uranium mining, and mining of sulfur by the Frasch process, but does not include the solution mining of salt when leaching a cavern for the storage of hydrocarbons.

(13), (14) Renumbered as (11) and (12) by Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985.

(15) "Hazardous waste" has the meaning assigned to that term by Section 361.003, Health and Safety Code.

(16) "Production well" means a well used to recover uranium through in situ solution recovery, including an injection well used to recover uranium. The term does not include a well used to inject waste.

(17) "Monitoring well" means a well that is used to measure or monitor the level, quality, quantity, or movement of subsurface water.

(18) "Area permit" means a permit that authorizes the construction and operation of production and monitoring wells used in operations and restoration associated with in situ recovery of uranium.

(19) "Anthropogenic carbon dioxide":

(A) means:

(i) carbon dioxide that would otherwise have been released into the atmosphere that has been:

(a) stripped, segregated, or divided from any other fluid stream; or

(b) captured from an emissions source, including:

(1) an advanced clean energy project as defined by Section 382.003, Health and Safety Code, or another type of electric generation facility; or

(2) an industrial source of emissions;

(ii) any incidental associated substance derived from the source material for, or from the process of capturing, carbon dioxide described by Subparagraph (i); and

(iii) any substance added to carbon dioxide described by Subparagraph (i) to enable or improve the process of injecting the carbon dioxide; and

(B) does not include naturally occurring carbon dioxide that is recaptured, recycled, and reinjected as part of enhanced recovery operations.

(20) "Anthropogenic carbon dioxide injection well" means an injection well used to inject or transmit anthropogenic carbon dioxide into a reservoir.

(21) "Enhanced recovery operation" means the use of any process for the displacement of hydrocarbons from a reservoir other than primary recovery and includes the use of any physical, chemical, thermal, or biological process and any co-production project.

(22) "Geologic storage" means the underground storage of anthropogenic carbon dioxide in a reservoir.

(23) "Geologic storage facility" means the underground reservoir, underground equipment, injection wells, and surface buildings and equipment used or to be used for the geologic storage of anthropogenic carbon dioxide and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the geologic storage of anthropogenic carbon dioxide. The term includes any reasonable and necessary areal buffer and subsurface monitoring zones, pressure fronts, and other areas as may be necessary for this state to receive delegation of any federal underground injection control program relating to the storage of carbon dioxide. The term does not include a pipeline used to transport carbon dioxide from the facility at which the carbon dioxide is captured to the geologic storage facility. The storage of carbon dioxide incidental to or as part of enhanced recovery

operations does not in itself automatically render a facility a geologic storage facility.

(24) "Oil or gas" means oil, natural gas, or gas condensate.

(25) "Reservoir" means a natural or artificially created subsurface sedimentary stratum, formation, aquifer, cavity, void, or coal seam.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 566, Sec. 14, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 795, Sec. 1.114, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 14, Sec. 284(76), eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.067, eff. Aug. 12, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 1, eff. September 1, 2009.

Sec. 27.003. POLICY AND PURPOSE. It is the policy of this state and the purpose of this chapter to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare and the operation of existing industries, taking into consideration the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 2001, 77th Leg., ch. 965, Sec. 1.27, eff. Sept. 1, 2001.

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SUBCHAPTER C-1. GEOLOGIC STORAGE AND ASSOCIATED INJECTION OF ANTHROPOGENIC CARBON DIOXIDE

Sec. 27.040. DEFINITION. In this subchapter, "offshore" means the area in the Gulf of Mexico seaward of the coast that is within three marine leagues of the coast.

Added by Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 7, eff. June 9, 2021.

Sec. 27.041. JURISDICTION. (a) The railroad commission has jurisdiction over the onshore and offshore injection and geologic storage of carbon dioxide in this state.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 15, eff. June 9, 2021.

(c) The railroad commission has jurisdiction over a well used for the purpose provided by Subsection (a) regardless of whether the well was initially completed for that purpose or was initially completed for another purpose and is converted to the purpose provided by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 8, eff. June 9, 2021.

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 15, eff. June 9, 2021.

Sec. 27.042. APPLICABILITY. This subchapter does not apply to the injection of fluid through the use of a Class II injection well as defined by 40 C.F.R. Section 144.6(b) for the primary purpose of enhanced recovery operations.

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Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.043. PERMIT FROM RAILROAD COMMISSION. (a) A person may not begin drilling or operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility regulated under this subchapter without first obtaining the necessary permits from the railroad commission.

(b) The railroad commission may not issue a permit under this subchapter for the conversion of a previously plugged and abandoned Class I injection well, including any associated waste plume, to a Class VI injection well.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 9, eff. June 9, 2021.

Sec. 27.044. INFORMATION REQUIRED OF APPLICANT. The railroad commission shall require an applicant to provide any information the railroad commission considers necessary to discharge its duties under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.045. FEES. (a) The railroad commission may impose fees to cover the cost of:

(1) permitting, monitoring, and inspecting anthropogenic carbon dioxide injection wells for geologic storage and geologic storage facilities; and

(2) enforcing and implementing this subchapter and rules adopted by the railroad commission under this subchapter.

(b) Fees collected by the railroad commission under this section shall be deposited to the credit of the anthropogenic carbon dioxide storage trust fund established under Section 121.003, Natural Resources Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.002(16), eff. September 1, 2011.

Sec. 27.046. LETTER OF DETERMINATION FROM RAILROAD COMMISSION. (a) The railroad commission may not issue a permit under rules adopted under this subchapter until the railroad commission issues to the applicant for the permit a letter of determination stating that drilling and operating the anthropogenic carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand.

(b) To make the determination required by Subsection (a), the railroad commission shall review:

(1) the area of review and corrective action plans;

(2) any subsurface monitoring plans required during injection or post injection;

(3) any postinjection site care plans; and

(4) any other elements of the application reasonably required in order for the railroad commission to make the determination required by Subsection (a).

(c) The railroad commission shall adopt rules to implement and administer this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. 2694), Sec. 2.06, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 10, eff. June 9, 2021.

Sec. 27.0461. LETTER OF DETERMINATION FROM COMMISSION. A person making an application to the railroad commission for a permit under this subchapter shall submit with the application a letter of determination from the commission concluding that drilling and operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted by the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 11, eff. June 9, 2021.

Sec. 27.047. RULES. The railroad commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this subchapter, including rules for:

(1) the geologic storage and associated injection of anthropogenic carbon dioxide, including:

(A) geologic site characterization;

(B) area of review and corrective action;

(C) well construction;

(D) operation;

(E) mechanical integrity testing;

(F) monitoring;

(G) well plugging;

(H) postinjection site care;

(I) site closure; and

(J) long-term stewardship;

(2) the enforcement of this subchapter and rules adopted by the railroad commission under this subchapter; and

(3) the collection and administration of:

(A) fees imposed under Section 27.045;

(B) penalties imposed for a violation of this subchapter or rules adopted by the railroad commission under this subchapter; and

(C) funds received from financial responsibility mechanisms under Section 27.073.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 12, eff. June 9, 2021.

Sec. 27.048. CONSISTENCY WITH AND IMPLEMENTATION OF FEDERAL REQUIREMENTS. (a) Rules adopted by the railroad commission under this subchapter must be consistent with applicable rules or regulations adopted by the United States Environmental Protection Agency or another federal agency governing the injection and geologic storage of anthropogenic carbon dioxide.

(b) If rules or regulations adopted to govern the geologic storage and associated injection of anthropogenic carbon dioxide under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.) or another federal statute allow this state to seek primary enforcement authority under the underground injection control program, the railroad commission shall seek primacy to administer and enforce the program for the geologic storage and associated injection of anthropogenic carbon dioxide in this state, including onshore and offshore geologic storage and associated injection.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 13, eff. June 9, 2021.

Sec. 27.049. MEMORANDUM OF UNDERSTANDING. The commission and the railroad commission, as necessary to comply with this subchapter, by rule shall:

(1) amend the memorandum of understanding recorded in 16 T.A.C. Section 3.30; or

(2) enter into a new memorandum of understanding.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

Sec. 27.050. FINANCIAL RESPONSIBILITY. (a) A person to whom a permit is issued under this subchapter must provide to the railroad commission annually evidence of financial responsibility that is satisfactory to the railroad commission.

(b) In determining whether the person is financially responsible, the railroad commission shall rely on:

(1) the person's most recent quarterly report filed with the United States Securities and Exchange Commission under Section 13 or 15(d), Securities Exchange Act of 1934 (15 U.S.C. Section 78m or 78o(d)); or

(2) if the person is not required to file with the United States Securities and Exchange Commission a report described by Subdivision (1), the person's most recent audited financial statement.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 2, eff. September 1, 2009.

SUBCHAPTER D. ISSUANCE OF PERMITS: TERMS AND CONDITIONS

Sec. 27.051. ISSUANCE OF PERMIT.

* * *

(b) The railroad commission may grant an application for a permit under Subchapter C in whole or part and may issue the permit if it finds:

(1) that the use or installation of the injection well is in the public interest;

(2) that the use or installation of the injection well will not endanger or injure any oil, gas, or other mineral formation;

(3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution; and

(4) that the applicant has made a satisfactory showing of financial responsibility if required by Section 27.073.

(b-1) The railroad commission may issue a permit under Subchapter C-1 if it finds:

(1) that the injection and geologic storage of anthropogenic carbon dioxide will not endanger or injure any oil, gas, or other mineral formation;

(2) that, with proper safeguards, both ground and surface fresh water can be adequately protected from carbon dioxide migration or displaced formation fluids;

(3) that the injection of anthropogenic carbon dioxide will not endanger or injure human health and safety;

(4) that the reservoir into which the anthropogenic carbon dioxide is injected is suitable for or capable of being made suitable for protecting against the escape or migration of anthropogenic carbon dioxide from the reservoir; and

(5) that the applicant for the permit meets all of the other statutory and regulatory requirements for the issuance of the permit.

(c) In the permit, the commission or railroad commission shall impose terms and conditions reasonably necessary to

protect fresh water from pollution, including the necessary casing.

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Sec. 27.053. RECORD OF STRATA. The commission or railroad commission may require a person receiving a permit or authorization by rule under this chapter to keep and furnish a complete and accurate record of the depth, thickness, and character of the different strata penetrated in drilling an injection well, monitoring well, or production well.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 3, eff. September 1, 2007.

Sec. 27.054. ELECTRIC OR DRILLING LOG. If an existing well is to be converted to an injection well, monitoring well, or production well, the commission or railroad commission may require the applicant to furnish an electric log or a drilling log of the existing well.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 4, eff. September 1, 2007.

Sec. 27.055. CASING REQUIREMENTS. The casing shall be set at the depth, with the materials, and in the manner required by the commission or railroad commission.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.056. FACTORS IN SETTING CASING DEPTH. Before setting the depth to which casing shall be installed, the commission or railroad commission shall consider:

(1) known geological and hydrological conditions and relationships;

(2) foreseeable future economic development in the area; and

(3) foreseeable future demand for the use of fresh water in the locality.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

SUBCHAPTER E. GENERAL POWERS

Sec. 27.071. POWER TO ENTER PROPERTY. Members of the commission and the railroad commission and employees of the commission and the railroad commission may enter public or private property to inspect and investigate conditions relating to injection well, monitoring well, disposal well, production well, or geologic storage activities within their respective jurisdictions or to monitor compliance with a rule, permit, or other order of the commission or railroad commission. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.120, eff. Sept. 1, 1985.
Amended by:

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Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 4, eff. September 1, 2009.

Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the commission and the railroad commission and employees of the commission and railroad commission may examine and copy those records or memoranda of a business they are investigating as provided by Section 27.071 that relate to the operation of an injection well, monitoring well, disposal well, production well, or geologic storage facility, or any other records required to be maintained by law.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.120, eff. Sept. 1, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 4, eff. September 1, 2009.

Sec. 27.073. FINANCIAL RESPONSIBILITY. (a) A person to whom an injection well permit is issued may be required by the commission or railroad commission to maintain a performance bond or other form of financial security to ensure that:

(1) an abandoned injection well is properly plugged; or

(2) funds are available for plugging, postinjection site care, and closure of an anthropogenic carbon dioxide injection well subject to Subchapter C-1.

(a-1) Notwithstanding Subsection (a), a person to whom an in situ uranium mining injection well, monitoring well, or production well permit is issued shall be required by the

commission to maintain a performance bond or other form of financial security to ensure that an abandoned well is properly plugged.

(b) Each state agency is authorized to receive funds as the beneficiary of a financial responsibility mechanism established under this section for the proper plugging of an injection well. Each state agency is authorized to expend such funds from a financial responsibility mechanism for the plugging of wells covered by that mechanism.

(b-1) The railroad commission is authorized to receive funds as the beneficiary of a financial responsibility mechanism established under this chapter for the proper management of an anthropogenic carbon dioxide injection well or geologic storage facility. The funds shall be deposited to the credit of the anthropogenic carbon dioxide storage trust fund established under Section 121.003, Natural Resources Code.

(c) If liability insurance is required of an applicant, the applicant may not use a claims made policy as security unless:

(1) the policy provides for a right of extension by the insured upon cancellation or nonrenewal of the policy by the insurance company;

(2) the applicant places in escrow as provided by the commission an amount sufficient to enable the commission to exercise the right under the policy to purchase an extension of the policy from the date of cancellation or expiration of the policy that is reasonable in light of the degree and duration of the risks; and

(3) the applicant provides the commission with a limited power of attorney by which the commission is given an irrevocable power to exercise the applicant's right under the policy to purchase such an extension of the policy.

(d) In addition to other forms of financial security authorized by the rules of the commission, the commission may authorize an applicant to use the letter of credit form of

financial security if either the issuing institution or another institution which guarantees payment under the letter:

(1) is a bank chartered by the state or by the federal government;

(2) is federally insured and its financial practices are regulated by the state or federal government; and

(3) is solvent and is not in receivership or owned or controlled by an entity that is insolvent or in receivership.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.120, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 638, Sec. 6, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1234, Sec. 2, eff. Aug. 28, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1118 (H.B. 3838), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 5, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 460 (H.B. 1284), Sec. 14, eff. June 9, 2021.

SUBCHAPTER F. CIVIL AND CRIMINAL REMEDIES

Sec. 27.101. CIVIL PENALTY. (a) A person who violates any provision of this chapter under the jurisdiction of the railroad commission, any rule of the railroad commission made under this chapter, or any term, condition, or provision of a permit issued by the railroad commission under this chapter shall be subject to a civil penalty in any sum not exceeding $5,000 for each day of noncompliance and for each act of noncompliance. A violation under the jurisdiction of the commission is enforceable as provided by Chapter 7.

(b) The action may be brought by the railroad commission in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.121, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1072, Sec. 24, eff. Sept. 1, 1997.

Sec. 27.1011. ADMINISTRATIVE PENALTY. (a) If a person violates the provisions of this chapter or a rule, order, license, permit, or certificate issued under this chapter, the person may be assessed a civil penalty by the railroad commission.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983.

Sec. 27.1012. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 27.1011 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The railroad commission shall then issue an order requiring that the penalty be paid.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983.

Sec. 27.1013. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the railroad commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post with the railroad commission a supersedeas bond in a form approved by the railroad commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the railroad commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the railroad commission, remit the appropriate amount to the person, with

accrued interest, or where a supersedeas bond has been posted, the railroad commission shall execute a release of such bond.

(d) Failure to forward the money to the railroad commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the railroad commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Subchapter G, Chapter 2001, Government Code.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(53), (59), eff. Sept. 1, 1995.

Sec. 27.1014. RECOVERY OF PENALTY. Civil penalties owed under Sections 27.1011-27.1013 of this code may be recovered in a civil action brought by the attorney general at the request of the railroad commission.

Added by Acts 1983, 68th Leg., p. 1411, ch. 286, Sec. 3, eff. Aug. 29, 1983.

Sec. 27.102. INJUNCTION, ETC. (a) The railroad commission may enforce a provision of this chapter under the jurisdiction of the railroad commission, any valid rule made by the railroad commission under this chapter, or any term, condition, or provision of a permit issued by the railroad commission under this chapter by injunction or other appropriate remedy. The suit shall be brought in a court of competent jurisdiction in the county where the offending activity is occurring.

(b) The executive director may enforce a provision of this chapter under the jurisdiction of the commission, a commission

rule adopted under this chapter, or a term, condition, or provision of a permit issued by the commission under this chapter as provided by Subchapter B, Chapter 7.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1997, 75th Leg., ch. 1072, Sec. 25, eff. Sept. 1, 1997.

Sec. 27.103. PROCEDURE. (a) At the request of the railroad commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in Sections 27.101 and 27.102 of this chapter.

(b) Any party to a suit may appeal from a final judgment as in other civil cases.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981; Acts 1997, 75th Leg., ch. 1072, Sec. 26, eff. Sept. 1, 1997.

Sec. 27.104. EFFECT OF PERMIT ON CIVIL LIABILITY. The fact that a person has a permit issued under this chapter does not relieve him from any civil liability.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981.

Sec. 27.105. CRIMINAL FINES. (a) A person who knowingly or intentionally violates a provision of this chapter under the jurisdiction of the railroad commission, a rule of the railroad commission, or a term, condition, or provision of a permit issued by the railroad commission under this chapter is subject

to a fine of not more than $5,000 for each violation and for each day of violation. A violation under the jurisdiction of the commission is enforceable under Section 7.157.

(b) Venue for prosecution of an alleged violation is in the county in which the violation is alleged to have occurred or where the defendant resides.

Added by Acts 1981, 67th Leg., p. 3161, ch. 830, Sec. 1, eff. June 17, 1981. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.1211, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1072, Sec. 27, eff. Sept. 1, 1997.

END OF TEXAS WATER CODE CHAPTER 27 STATUTES

WATER CODE

TITLE 2. WATER ADMINISTRATION

SUBTITLE D. WATER QUALITY CONTROL

CHAPTER 26. WATER QUALITY CONTROL

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

Sec. 26.001. DEFINITIONS. As used in this chapter:

(1) "Board" means the Texas Water Development Board.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Executive director" means the executive director of the Texas Natural Resource Conservation Commission.

(5) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or

coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(7) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

(8) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.

(9) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

(10) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term:

(A) includes:

(i) tail water or runoff water from irrigation associated with an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone, as defined by Section 26.502; or

(ii) rainwater runoff from the confinement area of an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone, as defined by Section 26.502; and

(B) does not include tail water or runoff water from irrigation or rainwater runoff from other cultivated or uncultivated range land, pasture land, and farmland or rainwater runoff from an area of land located in a major sole source

impairment zone, as defined by Section 26.502, that is not owned or controlled by an operator of an animal feeding operation or concentrated animal feeding operation on which agricultural waste is applied.

(11) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

(12) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste.

(13) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state. The term:

(A) includes:

(i) tail water or runoff water from irrigation associated with an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone as defined by Section 26.502; or

(ii) rainwater runoff from the confinement area of an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone, as defined by Section 26.502; and

(B) does not include tail water or runoff water from irrigation or rainwater runoff from other cultivated or uncultivated rangeland, pastureland, and farmland or rainwater runoff from an area of land located in a major sole source impairment zone, as defined by Section 26.502, that is not owned or controlled by an operator of an animal feeding operation or concentrated animal feeding operation on which agricultural waste is applied.

(14) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(15) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(16) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.

(17) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

(18) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52, or Article XVI, Section 59 of the Texas Constitution.

(19) "Permit" means an order issued by the commission in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water and specifying the conditions under which the discharge may be made.

(20) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

(21) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants or

wastes are or may be discharged into or adjacent to any water in the state.

(22) "Identified state supplement to an NPDES permit" means any part of a permit on which the commission has entered a written designation to indicate that the commission has adopted that part solely in order to carry out the commission's duties under state statutes and not in pursuance of administration undertaken to carry out a permit program under approval by the Administrator of the United States Environmental Protection Agency.

(23) "NPDES" means the National Pollutant Discharge Elimination System under which the Administrator of the United States Environmental Protection Agency can delegate permitting authority to the State of Texas in accordance with Section 402(b) of the Federal Water Pollution Control Act.

(24) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement this chapter or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including:

(A) intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances;

(B) extensions, improvements, remodeling, additions, and alterations of the items in Paragraph (A) of this subdivision;

(C) elements essential to provide a reliable recycled supply such as standby treatment units and clear-well facilities;

(D) any works, including sites and acquisition of the land that will be a part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment;

(E) any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste; and

(F) facilities to provide for the collection, control, and disposal of waste heat.

(25) "Person" means an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

(26) "Affected county" is a county to which Subchapter B, Chapter 232, Local Government Code, applies.

Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, Sec. 1. Renumbered from Sec. 21.003 and amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 985, ch. 367, Sec. 43, eff. June 10, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.064, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 977, Sec. 19, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 642, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.068, eff. Aug. 12, 1991; Acts 1995, 74th Leg., ch. 979, Sec. 24, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 404, Sec. 43, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 965, Sec. 12.01, eff. Sept. 1, 2001.

Sec. 26.002. OWNERSHIP OF UNDERGROUND WATER. Nothing in this chapter affects ownership rights in underground water.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977.

Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of this state and the purpose of this subchapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state;

and to require the use of all reasonable methods to implement this policy.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 2001, 77th Leg., ch. 965, Sec. 1.26, eff. Sept. 1, 2001.

* * *

Text of section effective until delegation of RCRA authority to Railroad Commission of Texas

Sec. 26.131. DUTIES OF RAILROAD COMMISSION. (a) Except as provided by this section, the Railroad Commission of Texas is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from:

(1) activities associated with the exploration, development, and production of oil or gas or geothermal resources, including:

(A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(B) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the Railroad Commission of Texas;

(C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(D) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(E) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons"

and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(F) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(2) except to the extent the activities are regulated by the Texas Department of Health under Chapter 401, Health and Safety Code, activities associated with uranium exploration consisting of the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of uranium ore; and

(3) any other activities regulated by the Railroad Commission of Texas pursuant to Section 91.101, Natural Resources Code.

(b) Except as provided by Subsection (d), the Railroad Commission of Texas may issue permits for the discharge of waste resulting from the activities described by Subsection (a), and the discharge of waste into water in this state resulting from those activities must meet the water quality standards established by the commission.

(c) The term "waste" as used in this section does not include any waste that results from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

(d) The commission may issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described by Subsection (a) on delegation to the commission of NPDES authority for those discharges. The discharge of produced

water, hydrostatic test water, and gas plant effluent into water in this state under this subsection must meet the water quality standards established by the commission.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 395, ch. 185, Sec. 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 413, ch. 171, Sec. 2, eff. May 20, 1981; Acts 1985, 69th Leg., ch. 795, Sec. 1.103, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 921, Sec. 1, eff. June 15, 1985; Acts 1991, 72nd Leg., ch. 14, Sec. 284(89), eff. Sept. 1, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1140 (H.B. 2771), Sec. 1, eff. September 1, 2019.

* * *

END OF TEXAS WATER CODE CHAPTER 26 STATUTES

NATURAL RESOURCES CODE

TITLE 3. OIL AND GAS

SUBTITLE A. ADMINISTRATION

CHAPTER 81. RAILROAD COMMISSION OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Commissioner" means any member of the Railroad Commission of Texas.

Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.002. DEFINITION OF PERSON FOR CERTAIN PROVISIONS. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.01, eff. April 1, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 81.01001. SUNSET PROVISION. (a) The Railroad Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2029.

(b) The Railroad Commission of Texas shall pay the costs incurred by the Sunset Advisory Commission in performing a review of the commission under this section. The Sunset Advisory Commission shall determine the costs, and the commission shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission detailing the costs.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Amended by:

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 1.14(b), eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 1.07(a), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 2.05, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 1, eff. September 1, 2017.

Sec. 81.01002. CHAIRMAN. The commissioners shall elect one commissioner as the chairman.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01003. QUALIFICATIONS FOR OFFICE. A commissioner must be:

(1) a qualified voter under the constitution and laws; and

(2) at least 25 years of age.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF CONDUCT, AND CONFLICT OF INTEREST. A commissioner is subject to the provisions of Chapter 572, Government Code, that apply to elected officers, including the requirements governing personal financial statements, standards of conduct, and conflicts of interest.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01005. NAME AND SEAL. (a) The commissioners are known collectively as the "Railroad Commission of Texas."

(b) The seal of the commission contains a star of five points with the words "Railroad Commission of Texas" engraved on it.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

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Sec. 81.01006. PROCEDURAL RULES. The commissioners may adopt all rules necessary for the commission's government and proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

* * *

Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS. (a) In this section, "contested case" has the meaning assigned by Section 2001.003, Government Code.

(b) The commission may apply for, request, solicit, contract for, receive, accept, and administer gifts, grants, and donations of money or other assistance from any source to carry out any commission purpose or power.

(c) The commission may not, under Subsection (b), accept a gift or donation of money or of property from a party in a contested case during the period from the inception of the contested case until the 30th day after the date a final order is signed in the contested case.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01013. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be an employee of the commission employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a business or industry regulated by the commission; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a business or industry regulated by the commission.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, may not act as the general counsel to the commission.

(d) The commission shall provide to commissioners and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY. (a) The commission shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b); and

(3) be filed with the governor's office.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01016. SEPARATION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commissioners and the management responsibilities of the staff of the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.011. CHIEF SUPERVISOR. (a) The commission shall employ a chief supervisor of its oil and gas division to assist the commission in enforcing the laws relating to the production, transportation, and conservation of oil and gas and rules and orders of the commission adopted under these laws.

(b) The chief supervisor also shall perform the duties of the pipeline expert as provided in the pipeline laws of this state.

Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.012. QUALIFICATIONS OF CHIEF SUPERVISOR. In addition to other qualifications that may be required by the commission, a person appointed chief supervisor must have had at least five years' experience in some line of the oil or gas business, or in some other business or profession that would provide the necessary knowledge and experience for the performance of his duties.

Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.013. DEPUTY SUPERVISORS, ASSISTANTS, AND CLERICAL PERSONNEL. The commission may appoint a chief deputy supervisor, deputy supervisors, assistants, and clerical personnel necessary to execute the laws relating to oil and gas.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.014. QUALIFICATIONS OF CHIEF DEPUTY SUPERVISOR. A person appointed chief deputy supervisor must have had at least three years' experience in oil and gas field work.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.015. QUALIFICATIONS OF DEPUTY SUPERVISORS. Any person appointed deputy supervisor must have had at least two years' experience in oil and gas field work, including substantial experience in drilling or production.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.016. SALARIES. The salary of the chief supervisor, the chief deputy supervisor, and the deputy supervisors shall be the same as that provided in the General Appropriations Act.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

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Sec. 81.0165. SALARY OF SECRETARY. The salary of the secretary of the commission shall be the amount appropriated for that purpose by the legislature.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.017. ADDITIONAL EMPLOYEES. The commission may employ gaugers, inspectors, investigators, supervisors, and clerical employees. These employees shall include a chief engineer, chief petroleum engineer, and an administrative chief, and their salaries shall be paid in the amounts provided in the General Appropriations Act.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, Sec. 1, eff. Sept. 1, 1981.

Sec. 81.018. PAYMENT OF SALARIES AND OTHER EXPENSES. (a) Salaries and other expenses necessary in the administration and enforcement of the oil and gas laws shall be paid by warrants drawn by the comptroller on the State Treasury from general revenue.

(b) Warrants for expenses shall be issued only on duly verified statements of the persons entitled to the funds and on approval of the chairman of the commission.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 3, eff. September 1, 2015.

Sec. 81.019. DUTIES OF CHIEF SUPERVISOR, CHIEF DEPUTY SUPERVISOR, DEPUTY SUPERVISORS, AND OTHER EMPLOYEES. The chief

supervisor, chief deputy supervisor, deputy supervisors, and other employees shall perform the duties prescribed by the commission in conformity with rules of the commission relating to the production, transportation, and conservation of crude oil and natural gas.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.020. ADDITIONAL DUTIES OF CHIEF SUPERVISOR AND HIS DEPUTIES. (a) The chief supervisor and his deputies shall supervise the plugging of all abandoned wells and the shooting of wells and shall follow the rules of the commission relating to the production and conservation of oil and gas.

(b) The chief supervisor shall gather information and assist the commission in the performance of its duties under this title.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.021. INTELLECTUAL PROPERTY. (a) The commission may:

(1) apply for, register, secure, hold, and protect under the laws of the United States or any state or nation:

(A) a patent for the invention, discovery, or improvement of any process, machine, manufacture, or composition of matter;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression, known or later developed, from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the commission uses to identify and distinguish the

commission's goods and services from other goods and services; or

(D) other evidence of protection or exclusivity issued for intellectual property;

(2) contract with a person for the sale, lease, marketing, or other distribution of the commission's intellectual property;

(3) obtain under a contract described in Subdivision (2) a royalty, license right, or other appropriate means of securing reasonable compensation for the development or purchase of the commission's intellectual property; and

(4) waive or reduce the amount of compensation secured by contract under Subdivision (3) if the commission determines that the waiver or reduction will:

(A) further a goal or mission of the commission; and

(B) result in a net benefit to the state.

(b) Money paid to the commission under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.

Added by Acts 2017, 85th Leg., R.S., Ch. 72 (S.B. 1422), Sec. 1, eff. May 22, 2017.

UBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

Sec. 81.051. JURISDICTION OF COMMISSION. (a) The commission has jurisdiction over all:

(1) common carrier pipelines defined in Section 111.002 of this code in Texas;

(2) oil and gas wells in Texas;

(3) persons owning or operating pipelines in Texas; and

(4) persons owning or engaged in drilling or operating oil or gas wells in Texas.

(b) Persons listed in Subsection (a) of this section and their pipelines and oil and gas wells are subject to the jurisdiction conferred by law on the commission.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, Sec. 5, eff. Sept. 1, 1977.

Sec. 81.052. RULES. The commission may adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission as set forth in Section 81.051, including such rules as the commission may consider necessary and appropriate to implement state responsibility under any federal law or rules governing such persons and their operations.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 19, ch. 12, Sec. 1, eff. March 15, 1979.

Sec. 81.0521. FEE FOR APPLICATION FOR EXCEPTION TO RAILROAD COMMISSION RULE. (a) With each application for an exception to any commission rule contained in Chapter 3 of Part I of Title 16 of the Texas Administrative Code, the applicant shall submit to the commission a fee of $150.

(b) The application fee for an exception to any commission rule may not be refunded.

(c) The proceeds from this fee, excluding any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and cleanup fund as provided by Section 81.067.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 73, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.01, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 26, eff. September 1, 2015.

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Sec. 81.0523. EXCLUSIVE JURISDICTION AND EXPRESS PREEMPTION. (a) In this section:

(1) "Commercially reasonable" means a condition that would allow a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas, as determined based on the objective standard of a reasonably prudent operator and not on an individualized assessment of an actual operator's capacity to act.

(2) "Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

(b) An oil and gas operation is subject to the exclusive jurisdiction of this state. Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

(c) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

(1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and

(4) is not otherwise preempted by state or federal law.

(d) An ordinance or other measure is considered prima facie to be commercially reasonable if the ordinance or other measure has been in effect for at least five years and has allowed the oil and gas operations at issue to continue during that period.

Added by Acts 2015, 84th Leg., R.S., Ch. 30 (H.B. 40), Sec. 2, eff. May 18, 2015.

Sec. 81.053. COMMISSION POWERS. In the discharge of its duties and the enforcement of its jurisdiction under this title, the commission shall:

(1) institute suits;

(2) hear and determine complaints;

(3) require the attendance of witnesses and pay their expenses out of funds provided for that purpose;

(4) obtain the issuance of writs and process which may be necessary for the enforcement of its orders; and

(5) punish for contempt or disobedience of its orders in the manner provided for the district courts.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.0531. ADMINISTRATIVE PENALTY. (a) If a person violates provisions of this title which pertain to safety or

the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed:

(1) $10,000 a day for each violation that is not related to pipeline safety; or

(2) $200,000 a day for each violation that is related to pipeline safety.

(b-1) Each day a violation continues may be considered a separate violation for purposes of penalty assessments, provided that the maximum penalty that may be assessed for any related series of violations related to pipeline safety may not exceed $2 million.

(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. In determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety, the commission shall consider the guidelines adopted under Subsection (d).

(d) The commission by rule shall adopt guidelines to be used in determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety. The guidelines shall include a penalty calculation worksheet that specifies the typical penalty for certain violations, circumstances justifying enhancement of a penalty and the amount of the enhancement, and circumstances justifying a reduction in a penalty and the amount of the reduction. The guidelines shall take into account:

(1) the permittee's history of previous violations, including the number of previous violations;

(2) the seriousness of the violation and of any pollution resulting from the violation;

(3) any hazard to the health or safety of the public;

(4) the degree of culpability;

(5) the demonstrated good faith of the person charged; and

(6) any other factor the commission considers relevant.

(e) A penalty collected under this section shall be deposited to the credit of the oil-field cleanup fund.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1999, 76th Leg., ch. 1089, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 104 (S.B. 900), Sec. 1, eff. September 1, 2013.

Sec. 81.0532. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 81.0531 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983.

Sec. 81.0533. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the commission shall inform the person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post with the commission a supersedeas bond in a form approved by the commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the commission shall execute a release of such bond.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Subchapter G, Chapter 2001, Government Code.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(53), (59), eff. Sept. 1, 1995.

Sec. 81.0534. RECOVERY OF PENALTY. Civil penalties owed under Sections 81.0531-81.0533 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983.

Sec. 81.054. ENFORCEMENT BY ATTORNEY GENERAL. (a) The attorney general shall enforce the provision of this title by injunction or other adequate remedy and as otherwise provided by law.

(b) If an action is instituted by the attorney general under this section alleging a violation of an NPDES permit or the failure to obtain an NPDES permit under Chapter 91 or Chapter 141 of the Natural Resources Code, the attorney general may not oppose intervention by a person who has standing to intervene, as provided by Rule 60, Texas Rules of Civil Procedure.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 310, Sec. 5, eff. Aug. 28, 1995.

Sec. 81.055. PIPELINE SYSTEM FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(132), eff. June 17, 2011.

(b) If the legislature finds that adoption of such a requirement is desirable, the commission by rule may require an owner, operator, or manager of a pipeline system to obtain evidence of financial responsibility. The rules must specify the appropriate form and amount of that evidence and may require evidence of financial responsibility in different amounts for different pipeline systems, taking into consideration whether the pipeline system:

(1) has a history of discharges or other violations of regulatory requirements; or

(2) is located over a public drinking water supply, a natural resource, or a critical groundwater resource or near a school or populated area.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(132), eff. June 17, 2011.

Sec. 81.056. CONTAMINATION REPORT. (a) In this section:

(1) "Common carrier" has the meaning assigned by Section 111.002.

(2) "Owner of the land" or "landowner" means the first person who is shown on the appraisal roll of the appraisal district established for the county in which a tract of land is located as owning an interest in the surface estate of the land at the time a contamination report is required to be made under this section.

(b) If in the process of placing, repairing, replacing, or maintaining a pipeline a common carrier or an owner or operator of a pipeline observes or detects any petroleum-based contamination of soil or water in proximity to the pipeline, the common carrier or pipeline owner or operator shall report the

contamination to the commission and the owner of the land on which the pipeline is located. Petroleum-based contamination of soil or water that is observed or detected is required to be reported under this subsection if:

(1) hydrocarbons are present on the surface of the water;

(2) at least five linear yards of soil have been affected by hydrocarbons; or

(3) soil affected by hydrocarbons extends beyond the face of the excavation in which the contamination is observed or detected.

(c) The contamination report:

(1) must be made not later than 24 hours after the common carrier or pipeline owner or operator observes or detects the contamination;

(2) must include the global positioning satellite coordinates of the location of the contamination; and

(3) may be made by telephone, facsimile, or electronic mail.

(d) Not later than the third business day after the date the commission receives the contamination report, a person authorized by the commission shall withdraw a soil sample from the contaminated land. The person is entitled to enter the land for the purpose of withdrawing the sample.

(e) A common carrier or pipeline owner or operator that makes a contamination report under this section is released from all liability for the contamination or the cleanup of the contamination covered by the report, except for any contamination caused by the common carrier or pipeline owner or operator.

(f) The commission shall adopt rules to implement this section.

(g) The commission may use money in the oil-field cleanup fund to implement this section. The amount of money in the fund the commission may use for that purpose may not exceed the amount of money in the fund that is derived from fees collected

under Section 91.142 from common carriers or owners or operators of pipelines as determined annually by the commission.

Added by Acts 2005, 79th Leg., Ch. 339 (S.B. 1130), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 166 (H.B. 472), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 166 (H.B. 472), Sec. 2, eff. September 1, 2009.

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Sec. 81.058. ADMINISTRATIVE PENALTY FOR CERTAIN NATURAL GAS-RELATED ACTIVITIES. (a) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas, a person described by Section 81.051(a) or 111.081(a), or any other entity under the jurisdiction of the commission under this code that the commission determines has:

(1) violated a commission rule adopting standards or a code of conduct for entities in the natural gas industry prohibiting unlawful discrimination; or

(2) unreasonably discriminated against a seller of natural gas in the purchase of natural gas from the seller.

(b) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser, transporter, or gatherer of natural gas if the commission determines that the person engaged in prohibited discrimination against a shipper or seller of natural gas because the shipper or seller filed a formal or informal complaint with the commission against the person relating to the person's purchase, transportation, or gathering of the gas.

(c) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural

gas who is a party to an informal complaint resolution proceeding and is determined by the commission to have:

(1) failed to participate in the proceeding; or

(2) failed to provide information requested by a mediator in the proceeding.

(d) An administrative penalty imposed under this section may not exceed $5,000 a day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(e) If the commission determines after notice and opportunity for hearing that an entity has engaged in prohibited discrimination for which a penalty may be imposed under this section, the commission may issue any order necessary and reasonable to prevent the discrimination from continuing.

(f) The remedy provided by this section is cumulative of any other remedy the commission may order.

Added by Acts 2007, 80th Leg., R.S., Ch. 757 (H.B. 3273), Sec. 1, eff. September 1, 2007.

Sec. 81.059. APPOINTMENT OF MEDIATORS FOR INFORMAL COMPLAINTS. (a) The commission may provide for the appointment of a commission staff member as the mediator of an informal complaint filed with the commission, or the parties may agree to employ and pay an independent mediator for the purpose of mediating the complaint.

(b) If the parties request that the mediation be conducted at a location other than the offices of the commission in Austin, the parties shall reimburse the commission for the commission's costs related to travel to those other locations.

(c) This section does not prohibit the commission from requiring that the parties participate in a formal complaint resolution proceeding.

(d) At least annually, the commission shall notify oil and gas producers of the existence of any informal complaint resolution process provided for by the commission.

(e) Filing an informal complaint is not a prerequisite for filing a formal complaint.

Added by Acts 2007, 80th Leg., R.S., Ch. 757 (H.B. 3273), Sec. 1, eff. September 1, 2007.

Sec. 81.0591. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.0592. CONSUMER INTEREST INFORMATION. (a) The commission shall prepare information of consumer interest describing the regulatory functions of the commission and the

procedures by which consumer complaints are filed with and resolved by the commission.

(b) The commission shall make the information available to the public and appropriate state agencies.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

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Sec. 81.062. PUBLIC PARTICIPATION. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF LICENSE, PERMIT, OR CERTIFICATE. (a) If the commission proposes to suspend or revoke a person's license, permit, or certificate of public convenience and necessity, the person is entitled to a hearing before the commission.

(b) The commission may not:

(1) refuse to issue a license, permit, or certificate to a person because of the person's race, religion, color, sex, or national origin; or

(2) revoke or suspend the license, permit, or certificate of a person because of the person's race, religion, color, sex, or national origin.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

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Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED EMPLOYEE IN CASES BEFORE COMMISSION. (a) In a case before the commission, a commissioner, or an authorized commission employee, designated by the commission for that purpose, in the same manner as if the entire commission were present, may:

(1) hold a hearing;

(2) conduct an investigation;

(3) make a record of a hearing or investigation for the use and benefit of the commission;

(4) administer an oath;

(5) certify to an official act; and

(6) compel the attendance of a witness and the production of papers, books, accounts, and other pertinent documents and testimony.

(b) The record of a hearing or investigation made under this section that is certified to by the commissioner or employee has the same effect as if made before the commission. The commission shall determine a case in which the record is made under this section in the same manner as if the record had been made before the commission.

(c) The commission may punish for contempt a person who:

(1) refuses to comply with this section; or

(2) obstructs or attempts to obstruct a proceeding under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.065. ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any

model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for alternative dispute resolution; and

(3) collect information concerning the effectiveness of those procedures.

Added by Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 2, eff. September 1, 2017.

Sec. 81.066. OIL AND GAS DIVISION MONITORING AND ENFORCEMENT STRATEGIC PLAN. (a) The oil and gas division of the commission shall develop and publish an annual plan for each state fiscal year to use the oil and gas monitoring and enforcement resources of the commission strategically to ensure public safety and protect the environment.

(b) The commission shall seek input from stakeholders when developing each annual plan.

(c) The commission shall collect and maintain information that accurately shows the commission's oil and gas monitoring and enforcement activities. Each annual plan must include a report of the information collected by the commission that shows the commission's oil and gas monitoring and enforcement activities over time.

(d) The information described by Subsection (c) must include data regarding violations of statutes or commission rules that relate to oil and gas, including:

(1) the number, type, and severity of:

(A) violations the commission found to have occurred;

(B) violations the commission referred for enforcement to the section of the commission responsible for enforcement; and

(C) violations for which the commission imposed a penalty or took other enforcement action;

(2) the number of major violations for which the commission imposed a penalty or took other enforcement action; and

(3) the number of repeat major violations, categorized by individual oil or gas lease, if applicable.

(e) The commission shall publish each annual plan on the commission's Internet website not later than July 1 of the year preceding the state fiscal year in which the commission implements the plan.

Added by Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 2, eff. September 1, 2017.

Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND. (a) The oil and gas regulation and cleanup fund is created as an account in the general revenue fund of the state treasury.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 55 (H.B. 2675), Sec. 3, eff. September 1, 2019.

(c) The fund consists of:

(1) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;

(2) private contributions, including contributions made under Section 89.084;

(3) expenses collected under Section 89.083;

(4) fees imposed under Section 85.2021;

(5) costs recovered under Section 91.457 or 91.459;

(6) proceeds collected under Sections 89.085 and 91.115;

(7) interest earned on the funds deposited in the fund;

(8) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;

(9) costs recovered under Section 91.113(f);

(10) hazardous oil and gas waste generation fees collected under Section 91.605;

(11) oil-field cleanup regulatory fees on oil collected under Section 81.116;

(12) oil-field cleanup regulatory fees on gas collected under Section 81.117;

(13) fees for a reissued certificate collected under Section 91.707;

(14) fees collected under Section 91.1013;

(15) fees collected under Section 89.088;

(16) fees collected under Section 91.142;

(17) fees collected under Section 91.654;

(18) costs recovered under Sections 91.656 and 91.657;

(19) fees collected under Section 81.0521;

(20) fees collected under Sections 89.024 and 89.026;

(21) legislative appropriations;

(22) any surcharges collected under Section 81.070;

(23) fees collected under Section 91.0115;

(24) fees collected under Subchapter E, Chapter 121, Utilities Code;

(25) fees collected under Section 27.0321, Water Code;

(26) fees collected under Section 81.071; and

(27) money collected under Section 81.021.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.02, eff. September 28, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 10, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1075 (H.B. 3309), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 27, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 72 (S.B. 1422), Sec. 2, eff. May 22, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 13.001, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 55 (H.B. 2675), Sec. 3, eff. September 1, 2019.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 11.001, eff. September 1, 2019.

Sec. 81.068. PURPOSES OF OIL AND GAS REGULATION AND CLEANUP FUND. Money in the oil and gas regulation and cleanup fund may be used by the commission or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, and oil and gas well plugging, the study and evaluation of electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state, the administration of pipeline safety and regulatory programs, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.02, eff. September 28, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 11, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1075 (H.B. 3309), Sec. 2, eff. September 1, 2013.
Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 28, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 4, eff. September 1, 2017.

Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The commission, through the legislative appropriations request process, shall establish specific performance goals for the oil and gas regulation and cleanup fund for the next biennium, including goals for each quarter of each state fiscal year of the biennium for the number of:

(1) orphaned wells to be plugged with state-managed funds;

(2) abandoned sites to be investigated, assessed, or cleaned up with state funds; and

(3) surface locations to be remediated.

(b) The commission shall provide quarterly reports to the Legislative Budget Board that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:

(A) the amount of money deposited in the oil and gas regulation and cleanup fund;

(B) the amount of money spent from the fund for the purposes described by Subsection (a);

(C) the balance of the fund; and

(D) the commission's progress in meeting the quarterly performance goals established under Subsection (a) and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least

five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance; and

(2) any additional information or data requested in writing by the Legislative Budget Board.

(c) The commission shall submit to the legislature and make available to the public, annually, a report that reviews the extent to which money provided under Section 81.067 has enabled the commission to better protect the environment through oil-field cleanup activities. The report must include:

(1) the performance goals established under Subsection (a) for that state fiscal year, the commission's progress in meeting those performance goals, and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance;

(2) the number of orphaned wells plugged with state-managed funds, by region;

(3) the number of wells orphaned, by region;

(4) the number of inactive wells not currently in compliance with commission rules, by region;

(5) the status of enforcement proceedings for all wells in violation of commission rules and the period during which the wells have been in violation, by region in which the wells are located;

(6) the number of surface locations remediated, by region;

(7) a detailed accounting of expenditures of money in the fund for oil-field cleanup activities, including expenditures for plugging of orphaned wells, investigation, assessment, and cleaning up of abandoned sites, and remediation of surface locations;

(8) the method by which the commission sets priorities by which it determines the order in which orphaned wells are plugged;

(9) a projection of the amount of money needed for the next biennium for plugging orphaned wells, investigating, assessing, and cleaning up abandoned sites, and remediating surface locations; and

(10) the number of sites successfully remediated under the voluntary cleanup program under Subchapter O, Chapter 91, by region.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.02, eff. September 28, 2011.

Sec. 81.070. ESTABLISHMENT OF SURCHARGES ON FEES. (a) Except as provided by Subsection (b), the commission by rule shall provide for the imposition of reasonable surcharges as necessary on fees imposed by the commission that are required to be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067 in amounts sufficient to enable the commission to recover the costs of performing the functions specified by Section 81.068 from those fees and surcharges.

(b) The commission may not impose a surcharge on an oil-field cleanup regulatory fee on oil collected under Section 81.116 or an oil-field cleanup regulatory fee on gas collected under Section 81.117.

(c) The commission by rule shall establish a methodology for determining the amount of a surcharge that takes into account:

(1) the time required for regulatory work associated with the activity in connection with which the surcharge is imposed;

(2) the number of individuals or entities from which the commission's costs may be recovered;

(3) the effect of the surcharge on operators of all sizes, as measured by the number of oil or gas wells operated;

(4) the balance in the oil and gas regulation and cleanup fund; and

(5) any other factors the commission determines to be important to the fair and equitable imposition of the surcharge.

(d) The commission shall collect a surcharge on a fee at the time the fee is collected.

(e) A surcharge collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.

(f) A surcharge collected under this section shall not exceed an amount equal to 185 percent of the fee on which it is imposed.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.02, eff. September 28, 2011.

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SUBCHAPTER D. WITNESSES

Sec. 81.091. INCRIMINATING TESTIMONY. If a witness fails or refuses to appear on being summoned, to answer any question he is asked, or to produce any record or data required by subpoena, the claim that the testimony may tend to incriminate the person giving it does not excuse the witness from testifying or producing the records and data, but the evidence or testimony may not be used against the person on the trial of any criminal proceeding.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.092. FEE FOR EXECUTING PROCESS. The sheriff or constable executing process shall receive the compensation authorized by the commission.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.093. DEPOSITIONS. (a) In a matter pending for hearing before the commission or a division of the commission, the commission or an interested party may produce the testimony of a witness by written or oral deposition instead of compelling the personal attendance of the witness. For that purpose, the commission may issue a commission or other process necessary to take a deposition.

(b) The deposition shall be taken, to the extent applicable and to the greatest extent possible, in accordance with the provisions of the Texas Rules of Civil Procedure relating to written and oral depositions.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.04, eff. April 1, 2011.

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SUBCHAPTER F. CAMPAIGNING

Sec. 81.151. PENALTY FOR CAMPAIGNING. A person who receives a salary from funds provided under this title and who uses his time or a state-owned automobile for campaign purposes or for the purpose of furthering the candidacy of his employer or any other candidate for state office is guilty of a misdemeanor and on conviction shall be fined not less than $100 nor more than $500 and shall be confined in jail for not less than 30 nor more than 90 days.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

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Sec. 81.152. DISCHARGE AND INELIGIBILITY. A person found guilty under Section 81.151 of this code shall be discharged immediately from his position and shall be ineligible for employment by the state in the future.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.153. SETTING CIVIL COMPLAINT FOR HEARING. If a citizen of this state files a civil complaint with a district court in Travis County charging an employee with use of his time or a state-owned automobile for campaign purposes or to further the candidacy of his employer or any other candidate for state office, the court shall set the complaint for hearing at a time not less than 10 nor more than 20 days after the day on which the complaint is filed.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.154. NOTICE TO EMPLOYEE. The court shall have notice of the hearing served on the employee against whom the complaint was filed at least five days before the date of the hearing.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.155. COURT'S ORDER. At the hearing, if the court determines that the employee has used his time or a state-owned automobile as charged in the complaint, the court shall certify the fact to the department, agency, or commission which employs the person and order the employee's immediate discharge.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

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Sec. 81.156. APPEAL. Any person against whom charges have been filed is entitled to appeal to the court of appeals, but the pendency of the appeal does not suspend his discharge.

Acts 1977, 65th Leg., p. 2512, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 799, ch. 291, Sec. 91, eff. Sept. 1, 1981.

END OF TEXAS NATURAL RESOURCES CODE CHAPTER 81 STATUTES

NATURAL RESOURCES CODE

TITLE 3. OIL AND GAS

SUBTITLE B. CONSERVATION AND REGULATION OF OIL AND GAS

CHAPTER 85. CONSERVATION OF OIL AND GAS

* * *

SUBCHAPTER C. PROVISIONS GENERALLY APPLICABLE TO THE CONSERVATION OF OIL AND GAS

Sec. 85.041. ACTS PROHIBITED IN VIOLATION OF LAWS, RULES, AND ORDERS. (a) The purchase, acquisition, or sale, or the transporting, refining, processing, or handling in any other way, of oil or gas, produced in whole or in part in violation of any oil or gas conservation statute of this state or of any rule or order of the commission under such a statute, is prohibited.

(b) The purchase, acquisition, or sale, or the transporting, refining, processing, or handling in any other way, of any product of oil or gas which is derived in whole or in part from oil or gas or any product of either, which was in whole or part produced, purchased, acquired, sold, transported, refined, processed, or handled in any other way, in violation of any oil or gas conservation statute of this state, or of any rule or order of the commission under such a statute, is prohibited.

Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 85.042. RULES AND ORDERS. (a) The commission may promulgate and enforce rules and orders necessary to carry into effect the provisions of Section 85.041 of this code and to prevent that section's violation.

(b) When necessary, the commission shall make and enforce rules either general in their nature or applicable to particular fields for the prevention of actual waste of oil or operations in the field dangerous to life or property.

Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

END OF TEXAS NATURAL RESOURCES CODE CHAPTER 85 STATUTES

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NATURAL RESOURCES CODE

TITLE 3. OIL AND GAS

SUBTITLE B. CONSERVATION AND REGULATION OF OIL AND GAS

CHAPTER 91. PROVISIONS GENERALLY APPLICABLE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Gas" means natural gas.

(3) "Oil" means crude oil and crude petroleum oil.

Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

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Sec. 91.002. CRIMINAL PENALTY. (a) A person who wilfully or with criminal negligence violates Section 91.101 of this code or a rule, order, or permit of the commission issued under that section commits an offense.

(b) An offense under Subsection (a) of this section is punishable by a fine of not more than $10,000 a day for each day a violation is committed.

(c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

Added by Acts 1983, 68th Leg., p. 5262, ch. 967, Sec. 9, eff. Sept. 1, 1983. Renumbered from Sec. 91.351 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(32), eff. Sept. 1, 1987.

Sec. 91.003. ADDITIONAL ENFORCEMENT AUTHORITY. (a) In addition to other authority specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the manner and subject to the conditions provided in Chapters 81 and 85 of this code, including the authority to seek and obtain civil penalties and injunctive relief as provided by those chapters.

(b) If the enforcement authority in Section 81.054, Natural Resources Code, is used to institute a civil action alleging a violation of an NPDES permit issued under this chapter, the attorney general may not oppose intervention by a person who has standing to intervene as provided by Rule 60, Texas Rules of Civil Procedure.

Added by Acts 1983, 68th Leg., p. 5262, ch. 967, Sec. 9, eff. Sept. 1, 1983. Renumbered from Sec. 91.352 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(32), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 310, Sec. 6, eff. Aug. 28, 1995.

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SUBCHAPTER D. PREVENTION OF POLLUTION

Sec. 91.101. RULES AND ORDERS.

Text of section effective until delegation of RCRA authority to Railroad Commission of Texas

(a) To prevent pollution of surface water or subsurface water in the state, the commission shall adopt and enforce rules and orders and may issue permits relating to:

(1) the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;

(2) the production of oil and gas, including:

(A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(B) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;

(C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(D) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(E) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(F) activities associated with the storage, handling, reclamation, gathering, transportation, or

distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(3) the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission; and

(4) the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste as defined in Section 91.1011 of this subchapter, or of any other substance or material associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this subsection.

(b) Notwithstanding the provisions of Subsection (a) of this section, the authority granted to the commission by this section does not include the authority to adopt and enforce rules and orders or issue permits regarding the collection, storage, handling, transportation, processing, or disposal of waste arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 921, Sec. 4, eff. June 15, 1985.

Sec. 91.1011. OIL AND GAS WASTE.

Text of section effective until delegation of RCRA authority to Railroad Commission of Texas

(a) In this subchapter, "oil and gas waste" means waste that arises out of or incidental to the drilling for or producing of oil or gas, including waste arising out of or incidental to:

(1) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(2) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;

(3) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(4) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(5) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(6) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel.

(b) "Oil and gas waste" includes salt water, brine, sludge, drilling mud, and other liquid, semiliquid, or solid waste material, but does not include waste arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal

Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

Added by Acts 1983, 68th Leg., p. 5060, ch. 967, Sec. 7, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 921, Sec. 4, eff. June 15, 1985.

Sec. 91.1012. ACCESS TO PROPERTY AND RECORDS. Members and employees of the commission, on proper identification, may enter public or private property to inspect and investigate conditions relating to the quality of water in the state, to inspect and investigate conditions relating to development of rules, orders, or permits issuable under Section 91.101 of this code, to monitor compliance with a rule, permit, or other order of the commission, or to examine and copy, during reasonable working hours, those records or memoranda of the business being investigated. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

Added by Acts 1983, 68th Leg., p 5260, ch. 967, Sec. 7, eff. Sept. 1, 1983.

Sec. 91.1013. APPLICATION FEES. (a) With each application for a fluid injection well permit, the applicant shall submit to the commission a nonrefundable fee of $200. In this section, "fluid injection well" means any well used to inject fluid or gas into the ground in connection with the exploration or production of oil or gas other than an oil and gas waste disposal well regulated by the commission pursuant to Chapter 27, Water Code.

(b) With each application for a permit to discharge to surface water under this chapter and commission rules, other than a permit for a discharge that meets National Pollutant

Discharge Elimination System requirements for agricultural or wildlife use, the applicant shall submit to the commission a nonrefundable fee of $300.

(c) Fees collected under this section shall be deposited in the oil and gas regulation and cleanup fund.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 72, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 14, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1089, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 17, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.15, eff. September 28, 2011.

Sec. 91.1015. GROUNDWATER PROTECTION REQUIREMENTS. The commission shall adopt rules to establish groundwater protection requirements for operations that are within the jurisdiction of the commission, including requirements relating to the depth of surface casing for wells.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. 2694), Sec. 2.04, eff. September 1, 2011.

* * *

Sec. 91.102. ADDITIONAL PERSONNEL. The commission is directed to employ additional personnel necessary to administer this subchapter and related laws and rules and orders adopted by the commission.

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983.

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Sec. 91.103. PERSONS REQUIRED TO EXECUTE BOND, LETTER OF CREDIT, OR CASH DEPOSIT.

Any person, including any firm, partnership, joint stock association, corporation, or other organization, required to file an organization report under Section 91. 142 of this code shall execute and file with the commission a bond, letter of credit, or cash deposit.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 603, Sec. 8, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 18, eff. Sept. 1, 2004.

Sec. 91.104. BONDS, LETTERS OF CREDIT, CASH DEPOSITS, AND WELL-SPECIFIC PLUGGING INSURANCE POLICIES. (a) The commission shall require a bond, letter of credit, or cash deposit to be filed with the commission as provided by Subsection (b).

(b) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who is an inactive operator or who operates one or more wells must, at the time of filing or renewing an organization report required by Section 91.142, file:

(1) an individual bond as provided under Section 91.1041;

(2) a blanket bond as provided under Section 91.1042; or

(3) a letter of credit or cash deposit in the same amount as required for an individual bond under Section 91.1041 or a blanket bond under Section 91.1042.

(c) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who operates one or more wells is considered to have met that requirement for a well if the well bore is included in a well-specific plugging insurance policy that:

(1) is approved by the Texas Department of Insurance;

(2) names this state as the owner and contingent beneficiary of the policy;

(3) names a primary beneficiary who agrees to plug the specified well bore;

(4) is fully prepaid and cannot be canceled or surrendered;

(5) provides that the policy continues in effect until the specified well bore has been plugged;

(6) provides that benefits will be paid when, but not before, the specified well bore has been plugged in accordance with commission rules in effect at the time of plugging; and

(7) provides benefits that equal the greatest of:

(A) an amount equal to $2 for each foot of well depth, as determined in the manner specified by the commission, for the specified well;

(B) if the specified well is a bay well and regardless of whether the well is producing oil or gas, the amount required under commission rules for a bay well that is not producing oil or gas;

(C) if the specified well is an offshore well and regardless of whether the well is producing oil or gas, the amount required under commission rules for an offshore well that is not producing oil or gas; or

(D) the payment otherwise due under the policy for plugging the well bore.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 603, Sec. 9, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 30, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 19, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 20, eff. Sept. 1, 2004; Acts 2003, 78th Leg., ch. 490, Sec. 1, eff. Sept. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 1, eff. June 17, 2005.

Sec. 91.1041. INDIVIDUAL BOND.

(a) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who operates one or more wells may file a bond in an amount equal to $2 for each foot of well depth for each well.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a).

(c) When calculating under Subsection (a) the amount of the bond a person who operates one or more wells is required to file, the commission shall exclude a well if the well bore is included in a well-specific plugging insurance policy described by Section 91.104(c).

(d) If the inclusion of a bay or offshore well whose well bore is included in a well-specific plugging insurance policy described by Section 91.104(c) in the calculation under Subsection (b) of the amount of the bond an operator of one or more bay or offshore wells is required to file would result in an increase in the amount of the bond that would otherwise be required, the rules must provide for the exclusion of the well from the calculation.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 10, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 21, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 22, eff. Sept. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 2, eff. June 17, 2005.

Sec. 91.1042. BLANKET BOND.

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(a) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 may file a blanket bond to cover all wells for which a bond, letter of credit, or cash deposit is required as follows:

(1) a person who operates 10 or fewer wells shall file a $25,000 blanket bond;

(2) a person who operates more than 10 but fewer than 100 wells shall file a $50,000 blanket bond; and

(3) a person who operates 100 or more wells shall file a $250,000 blanket bond.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a)(1), (2), or (3), as applicable.

(c) When calculating the number of an operator's wells for purposes of Subsection (a), the commission shall exclude a well if the well bore is included in a well-specific plugging insurance policy described by Section 91.104(c).

(d) If the inclusion of a bay or offshore well whose well bore is included in a well-specific plugging insurance policy described by Section 91.104(c) in the calculation under Subsection (b) of the amount of the bond an operator of bay or offshore wells is required to file would result in an increase in the amount of the bond that would otherwise be required, the rules must provide for the exclusion of the well from the calculation.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 10, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 23, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 24, eff. Sept. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 3, eff. June 17, 2005.

Sec. 91.105. BOND CONDITIONS. Each bond required by Section 91.103 shall be conditioned that the operator will plug and abandon all wells and control, abate, and clean up pollution associated with an operator's oil and gas activities covered under the bond in accordance with the law of the state and the permits, rules, and orders of the commission. This section does not apply to a well-specific plugging insurance policy described by Section 91.104(c).

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Renumbered from Sec. 91.106 by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 11, eff. Sept. 1, 1991. Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 4, eff. June 17, 2005.

Sec. 91.106. EXECUTION OF BOND. Each bond shall be executed by a corporate surety authorized to do business in this state and shall be renewed and be continued in effect until the conditions have been met or release is authorized by the commission.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Renumbered from Sec. 91.107 by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983.

Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT. If an active or inactive well is transferred, sold, or assigned by its operator, the commission shall require the party acquiring the well to file a new bond, letter of credit, or cash deposit as provided by Section 91.104(b), and the financial security of the prior operator shall continue to be required and to remain in effect, and the commission may not approve the transfer of operatorship, until the new bond, letter of credit, or cash deposit is provided or the commission determines that

the bond, letter of credit, or cash deposit previously submitted to the commission by the person acquiring the well complies with this subchapter. A transfer of a well from one entity to another entity under common ownership is a transfer for purposes of this section. This section does not apply to a well bore that is included in a well-specific plugging insurance policy described by Section 91.104(c).

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Renumbered from Sec. 91.108 by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 12, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 25, 26, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 27, eff. Sept. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 5, eff. June 17, 2005.

Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the refund provisions of Section 91.1091, if applicable, proceeds from bonds and other financial security required pursuant to this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies shall be deposited in the oil and gas regulation and cleanup fund and, notwithstanding Sections 81.068 and 91.113, may be used only for actual well plugging and surface remediation.

Added by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 15, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 28, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 5, eff. June 17, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.16, eff. September 28, 2011.

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Sec. 91.1091. REFUND. The commission shall refund the proceeds from a bond, letter of credit, or cash deposit required under this subchapter if:

(1) the conditions that caused the proceeds to be collected are corrected;

(2) all administrative, civil, and criminal penalties relating to those conditions are paid; and

(3) the commission has been reimbursed for all costs and expenses incurred by the commission in relation to those conditions.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 16, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 30, Sec. 2, eff. Aug. 30, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 489 (H.B. 380), Sec. 5, eff. June 17, 2005.

* * *

Sec. 91.113. INVESTIGATION, ASSESSMENT, OR CLEANUP BY COMMISSION. (a) If oil and gas wastes or other substances or materials regulated by the commission under Section 91.101 are causing or are likely to cause the pollution of surface or subsurface water, the commission, through its employees or agents, may use money in the oil and gas regulation and cleanup fund to conduct a site investigation or environmental assessment or control or clean up the oil and gas wastes or other substances or materials if:

(1) the responsible person has failed or refused to control or clean up the oil and gas wastes or other substances or materials after notice and opportunity for hearing;

(2) the responsible person is unknown, cannot be found, or has no assets with which to control or clean up the oil and gas wastes or other substances or materials; or

(3) the oil and gas wastes or other substances or materials are causing the pollution of surface or subsurface water.

(b) For purposes of this section, "responsible person" means any operator or other person required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials.

(c) The commission or its employees or agents, on proper identification, may enter the land of another for the purpose of conducting a site investigation or environmental assessment or controlling or cleaning up oil and gas wastes or other substances or materials under this section.

(d) The conducting of a site investigation or environmental assessment or the control or cleanup of oil and gas wastes or other substances or materials by the commission under this section does not prevent the commission from seeking penalties or other relief provided by law from any person who is required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials.

(e) The commission and its employees are not liable for any damages arising from an act or omission if the act or omission is part of a good-faith effort to carry out this section.

(f) If the commission conducts a site investigation or environmental assessment or controls or cleans up oil and gas wastes or other substances or materials under this section, the commission may recover all costs incurred by the commission from any person who was required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials. The commission by order may require the person to

reimburse the commission for those costs or may request the attorney general to file suit against the person to recover those costs. At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under this subsection. A suit under this subsection may be filed in any court of competent jurisdiction in Travis County. Costs recovered under this subsection shall be deposited to the oil and gas regulation and cleanup fund.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 120, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 57, Sec. 3, eff. May 10, 1999.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.18, eff. September 28, 2011.

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Sec. 91.114. ACCEPTANCE OF ORGANIZATION REPORT OR APPLICATION FOR PERMIT; APPROVAL OF CERTIFICATE OF COMPLIANCE; REVOCATION. (a) Except as provided by Subsection (d), the commission may not accept an organization report required under Section 91.142 or an application for a permit under this Chapter, Chapter 85, or Chapter 26, 27, or 29, Water Code, or approve a certificate of compliance under Section 91.701 if:

(1) the organization that submitted the report, application, or certificate violated a statute or commission rule, order, license, certificate, or permit that relates to safety or the prevention or control of pollution; or

(2) a person who holds a position of ownership or control in the organization has, within the seven years preceding the date on which the report, application, or certificate is filed, held a position of ownership or control in another organization and during that period of ownership or

control the other organization violated a statute or commission rule, order, license, permit, or certificate that relates to safety or the prevention or control of pollution.

(b) An organization has committed a violation if:

(1) a final judgment or final administrative order finding the violation has been entered against the organization and all appeals have been exhausted; or

(2) the commission and the organization have entered into an agreed order relating to the alleged violation.

(c) Regardless of whether the person's name appears or is required to appear on the organization report required by Section 91.142, a person holds a position of ownership or control in an organization if:

(1) the person is:

(A) an officer or director of the organization;

(B) a general partner of the organization;

(C) the owner of a sole proprietorship organization;

(D) the owner of at least 25 percent of the beneficial interest in the organization; or

(E) a trustee of the organization; or

(2) the person has been determined by a final judgment or final administrative order to have exerted actual control over the organization.

(d) The commission shall accept the report or application or approve the certificate if:

(1) the conditions that constituted the violation are corrected or are being corrected in accordance with a schedule to which the commission and the organization have agreed;

(2) all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the state relating to those conditions are paid or are being paid in accordance with a payment schedule to which the commission and the organization have agreed; and

(3) the report, application, or certificate is in compliance with all other requirements of law and commission rules.

(e) If a report or application is rejected or a certificate is disapproved under this section, the commission shall provide the organization with a written statement explaining the reason for the rejection or disapproval.

(f) Notwithstanding Subsection (a), the commission may issue a permit to an organization described by Subsection (a) for a term specified by the commission if the permit is necessary to remedy a violation of law or commission rules.

(g) A fee tendered in connection with a report or application that is rejected under this section is nonrefundable.

(h) If the commission is prohibited by Subsection (a) from accepting an organization's organization report or application or approving the organization's certificate or would be prohibited from doing so by that subsection if the organization submitted a report, application, or certificate, the commission, after notice and opportunity for a hearing, by order may revoke:

(1) the organization's organization report filed under Section 91.142;

(2) a permit issued to the organization under this chapter, Chapter 85, or Chapter 26, 27, or 29, Water Code; or

(3) any certificate of compliance approved under Section 91.701.

(i) An order under Subsection (h) shall provide the organization a reasonable period of time to comply with the judgment or order finding the violation before the revocation takes effect.

(j) On revocation of its organization report, an organization may not perform any activities under the jurisdiction of the commission under this title or Chapter 26, 27, or 29, Water Code, except as necessary to remedy a violation of law or commission rules and as authorized by the commission.

(k) The commission may not revoke an organization's organization report, permit, or certificate of compliance under Subsection (h) if it finds that the organization has fulfilled the conditions set out in Subsection (d).

(l) In determining whether or not to revoke an organization's organization report, permit, or certificate of compliance under Subsection (h), the commission shall consider the organization's history of previous violations, the seriousness of previous violations, any hazard to the health or safety of the public, and the demonstrated good faith of the organization.

(m) Revocation of an organization's organization report, permit, or certificate does not relieve the organization of any existing or future duty under law, rules, or permit conditions to:

(1) protect surface or subsurface water from pollution;

(2) properly dispose of oil and gas waste; or

(3) clean up unpermitted discharges of oil and gas waste.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 13, eff. Sept. 1, 1991. Renumbered from Sec. 91.110 by Acts 1993, 73rd Leg., ch. 107, Sec. 10.01(10), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 617, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 121, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 30, Sec. 3, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 956, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 5, eff. September 1, 2007.

Sec. 91.115. FIRST LIEN ON EQUIPMENT AND STORED HYDROCARBONS OR DRILL CUTTINGS. (a) If a responsible person fails to clean up a site or facility that has ceased oil and gas operations under the commission's jurisdiction on or before the

date the site or facility is required to be cleaned up by law or by a rule adopted or order issued by the commission, the state has a first lien, superior to all preexisting and subsequent liens and security interests, on the responsible person's interest in any hydrocarbons or drill cuttings stored at the site or facility and in any equipment that is:

(1) located at the site or facility; and

(2) used by the responsible person in connection with the activity that generated the pollution.

(b) The lien is in the amount of the total costs of cleaning up the oil and gas wastes or other substances from the site or facility and arises on the date the site or facility is required by law or by a rule or order of the commission to be cleaned up.

(c) The commission may foreclose on the lien by entering into a contract to clean up the site or facility. The commission is not required to give notice or an opportunity for a hearing to subordinate lienholders before entering into a contract to clean up the site or facility.

(d) The lien is extinguished if the site or facility is cleaned up in accordance with commission rules by any person before the commission enters into a contract to clean up the site or facility.

(e) The lien is extinguished as to any stored hydrocarbons or drill cuttings or items of equipment that are lawfully removed by any person other than the operator or a nonoperator according to a lien, lease, judgment, written contract, or security agreement before the commission enters into a cleanup contract. An item of equipment may not be removed from an abandoned site or facility if the removal will cause the release of a substance that may cause pollution unless the substance is lawfully disposed of.

(f) Equipment or stored hydrocarbons or drill cuttings subject to a lien under this section are presumed to have been abandoned on the date the commission enters into a contract to

clean up the site or facility on which the equipment, hydrocarbons, or drill cuttings are located.

(f-1) The commission may dispose of the abandoned equipment or stored hydrocarbons in accordance with the provisions of Sections 89.085, 89.086, and 89.087 for the disposition of well-site equipment and hydrocarbons.

(f-2) The commission may dispose of the abandoned stored drill cuttings by contracting with a person to treat the drill cuttings at the site or facility for a subsequent beneficial use and selling the treated drill cuttings at a public auction or a public or private sale. Sections 89.085(c)-(i), 89.086, and 89.087 apply to the disposition of drill cuttings under this subsection in the same manner as those sections apply to the disposition of hydrocarbons.

(g) In this section:

(1) "Drill cuttings" has the meaning assigned by Section 123.001.

(2) "Responsible person" has the meaning assigned by Section 91.113.

(3) "Treat" means to use a manufacturing, mechanical, thermal, or chemical process other than sizing, shaping, diluting, or sorting.

(h) The lien provided by this section, as it relates to stored hydrocarbons, shall be subject to and inferior to any lien in favor of the State of Texas to secure royalty payments.

Added by Acts 1993, 73rd Leg., ch. 515, Sec. 7, eff. Jan. 1, 1994. Amended by Acts 2003, 78th Leg., ch. 1121, Sec. 1, 2, eff. Sept. 1, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 57 (S.B. 1260), Sec. 1, eff. May 18, 2021.

Acts 2021, 87th Leg., R.S., Ch. 57 (S.B. 1260), Sec. 2, eff. May 18, 2021.

SUBCHAPTER E. BOOKS, RECORDS, AND REPORTS

* * *

Sec. 91.142. REPORT TO COMMISSION. (a) A person, firm, partnership, joint stock association, corporation, or other domestic or foreign organization operating wholly or partially in this state and acting as principal or agent for another for the purpose of performing operations which are within the jurisdiction of the commission shall file immediately with the commission:

(1) the name of the company or organization;

(2) the post-office address of the company or organization;

(3) the plan under which the company or organization was organized;

(4) the names and post-office addresses of the trustee or trustees of the company or organization;

(5) the names, unique identifying numbers such as driver's license numbers, and post-office addresses of the officers and directors; and

(6) if required by Subsection (b) of this section, the name and address of the resident agent.

(b) Any foreign or nonresident entity listed in Subsection (a) of this section shall maintain or designate a resident agent upon whom any process, notice, or demand required or permitted by law to be served upon such entity may be served.

(c) If any such entity required by the terms of this section to maintain or designate such agent shall fail to do so, then and in such event, the organization report required to be filed with the commission is not valid.

(d) Failure by any such entity listed in Subsection (a) of this section to answer such process or demand shall render the organization report invalid.

(e) The commission shall require an entity described by Subsection (a) of this section to refile an organization report annually according to a schedule established by the commission.

(f) If an entity described by Subsection (a) does not maintain on file with the commission an organization report and financial security as required by this chapter:

(1) the entity may not perform operations under the jurisdiction of the commission except as necessary to remedy a violation of law or commission rules and as authorized by the commission; and

(2) the commission, on written notice, may suspend:

(A) any permits held by the entity; or

(B) any certificates of compliance approved under Subchapter P.

(g) An organization report filed under this section must be accompanied by the following fee:

(1) for an operator of not more than 25 wells, $300;

(2) for an operator of more than 25 but not more than 100 wells, $500;

(3) for an operator of more than 100 wells, $1,000;

(4) for an operator of one or more natural gas pipelines as classified by the commission, $225;

(5) for an operator of one or more service activities or facilities who does not operate any wells, an amount determined by the commission but not less than $300 or more than $500;

(6) for an operator of one or more liquids pipelines as classified by the commission who does not operate any wells, an amount determined by the commission but not less than $425 or more than $625;

(7) for an operator of one or more service activities or facilities, including liquids pipelines as classified by the commission, who also operates one or more wells, an amount determined by the commission based on the sum of the amounts provided by the applicable subdivisions of this subsection but not less than $425 or more than $1,125; and

(8) for an entity not currently performing operations under the jurisdiction of the commission, $300.

(h) To enable the commission to better protect the state's resources, an entity described by Subsection (a) or an affiliate of such an entity performing operations within the jurisdiction of the commission that files for federal bankruptcy protection shall give written notice to the commission of that action by submitting the notice to the office of general counsel not later than the 30th day after the date of filing.

Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 398, Sec. 1, eff. Aug. 26, 1985; Acts 1997, 75th Leg., ch. 121, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1233, Sec. 33, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 490, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 626, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 6, eff. September 1, 2007.

Sec. 91.143. FALSE APPLICATIONS, REPORTS, AND DOCUMENTS AND TAMPERING WITH GAUGES. (a) A person may not:

(1) make or subscribe any application, report, or other document required or permitted to be filed with the commission by the provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, knowing that the application, report, or other document is false or untrue in a material fact;

(2) aid or assist in, or procure, counsel, or advise the preparation or presentation of any of these applications, reports, or other documents that are fraudulent, false, or incorrect in any material matter, knowing them to be fraudulent, false, or incorrect in any material matter;

(3) knowingly simulate or falsely or fraudulently execute or sign such an application, report, or other document;

(4) knowingly procure these applications, reports, or other documents to be falsely or fraudulently executed, or advise, aid in, or connive at this execution; or

(5) knowingly render inaccurate any monitoring device required to be maintained by a commission rule, order, or permit.

(b) A person commits an offense if the person violates this section. An offense under this section is a felony punishable by:

(1) imprisonment in the Texas Department of Criminal Justice for a term of not less than two years or more than five years;

(2) a fine of not more than $10,000; or

(3) both the imprisonment and the fine.

(c) If other penalties prescribed in Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, overlap offenses that are also punishable under this section, the penalties prescribed in this section shall be in addition to other penalties.

(d) No application, report, or other document required or permitted to be filed with the commission under Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, may be required to be under oath, verification, acknowledgment, or affirmation.

(e) The commission may impose an administrative penalty in the manner provided by Sections 81.0531-81.0534 on a person who violates this section. The amount of the penalty may not exceed $1,000 for each violation.

Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch.

967, Sec. 1, eff. Sept. 1, 1983; Acts 1999, 76th Leg., ch. 31, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.136, eff. September 1, 2009.

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SUBCHAPTER M. ELECTRIC LOGS

Sec. 91.551. DEFINITIONS. (a) In this subchapter:

(1) "Well" means a well drilled for any purpose related to exploration for or production or storage of oil or gas or both oil and gas, including a well drilled for injection of fluids to enhance hydrocarbon recovery, disposal of produced fluids, disposal of waste from exploration or production activity, or brine mining.

(2) "Electric log" means a wireline survey, except dipmeter surveys and seismic wireline surveys, run in an open hole or a cased hole of a well for purposes of obtaining geological information.

(3) "Drilling operation" means a continuous effort to drill or deepen a well bore for which the commission has issued a permit.

(4) "Operator" means a person who assumes responsibility for the regulatory compliance of a well as shown by a form the person files with the commission and the commission approves.

(b) In this subchapter, "operator" includes a predecessor or successor operator.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 1001 (H.B. 484), Sec. 1, eff. September 1, 2005.

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Acts 2005, 79th Leg., Ch. 1001 (H.B. 484), Sec. 2, eff. September 1, 2005.

Sec. 91.552. ELECTRIC LOGS REQUIRED TO BE FILED; CRITERIA. (a) Except as otherwise provided by this subchapter, not later than the 90th day after the date a drilling operation is completed, the operator shall file with the commission a copy of each electric log, including each borehole section of the log at all depths, run after September 1, 2013, in conjunction with the drilling or deepening of the well that meets basic criteria established by the commission. Each electric log must be filed with the commission electronically in a manner acceptable to the commission if the commission has the technological capability to receive the electronic filing.

(b) The commission by rule shall establish criteria for electric logs to be filed with the commission.

(c) Not later than the deadline prescribed by Subsection (a) for the filing of each electric log, an operator shall file with the commission a copy of a cased hole log run after September 1, 2013, in conjunction with the drilling or deepening of a well in lieu of an electric log run after that date if:

(1) a cased hole log was run; and

(2) an electric log was not run.

(d) Nothing in this subchapter requires an operator to run an electric log in conjunction with the drilling or deepening of a well.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 1001 (H.B. 484), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 279 (H.B. 878), Sec. 1, eff. September 1, 2013.

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Sec. 91.553. AVAILABILITY OF ELECTRIC LOGS. (a) Except as specifically provided by this section, each electric log filed with the commission under this subchapter is not confidential and is public information under Chapter 552, Government Code.

(b) Not later than the date by which an electric log is required to be filed with the commission under Section 91.552, the operator may file a written request with the commission asking that the electric log remain confidential and not be made available as public information. On filing this request, the electric log or copy of the electric log required to be filed with the commission may be retained by the operator, and the electric log may remain in the possession of the operator for the period of confidentiality. On filing of the request for confidentiality, the electric log becomes confidential and remains confidential for a period of:

(1) three years after the date that the drilling operation was completed, if the well is an onshore well; or

(2) five years after the date that the drilling operation was completed, if the well is a bay or offshore well.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 279, Sec. 6, eff. September 1, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 279, Sec. 6, eff. September 1, 2013.

(e) An operator required to file an electric log under this section who has held the log during a period of confidentiality shall file the log with the commission within 30 days after the conclusion of the period of confidentiality.

(f) An operator who fails to timely file with the commission a written request under Subsection (b) that an electric log remain confidential and not be made available as public information shall file the log with the commission immediately after the conclusion of the period for filing the request.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1001 (H.B. 484), Sec. 4, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 279 (H.B. 878), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 279 (H.B. 878), Sec. 6, eff. September 1, 2013.

Sec. 91.554. AVAILABILITY OF CONFIDENTIAL ELECTRIC LOGS. If the commission requires an electric log to be filed before the expiration of a period of confidentiality, the commission shall make that electric log available for inspection during the period of confidentiality only to:

(1) a person authorized in writing by the operator; and

(2) members of the commission and its employees in the exercise of their powers and duties under this code.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 1001 (H.B. 484), Sec. 5, eff. September 1, 2005.

Sec. 91.555. MANAGEMENT AND STORAGE OF ELECTRIC LOGS. The commission may contract with any person for the management and storage of the electric logs filed with the commission.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.556. ENFORCEMENT. If an operator fails to file an electric log as required by this subchapter, the commission may:

(1) if the well is completed as a producing well, refuse to assign an allowable or a change in allowable for production from the well for which the electric log is required until the operator files the electric log with the commission; or

(2) impose an administrative penalty on the operator in the manner provided by Sections 81.0531-81.0534 for each well for which the operator failed to file an electric log.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 1001 (H.B. 484), Sec. 5, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 279 (H.B. 878), Sec. 3, eff. September 1, 2013.

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SUBCHAPTER P. CERTIFICATE OF COMPLIANCE

Sec. 91.701. WELL OWNERS AND OPERATORS CERTIFICATES. The owner or operator of any well subject to the jurisdiction of the commission under this title, Section 26.131, Water Code, or Subchapter C, Chapter 27, Water Code, shall secure from the commission a certificate showing compliance with that title, section, or subchapter, as applicable, rules adopted and orders issued under that title, section, or subchapter, as applicable, and any license, permit, or certificate issued to the owner or operator under that title, section, or subchapter, as applicable.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.

Sec. 91.702. PROHIBITED CONNECTION. No operator of a pipeline or other carrier shall connect with any well subject to the jurisdiction of the commission under this title, Section 26.131, Water Code, or Subchapter C, Chapter 27, Water Code, until the owner or operator of the well furnishes a certificate from the commission that the owner or operator has complied with that title, section, or subchapter, as applicable, rules adopted and orders issued under that title, section, or subchapter, as applicable, and any license, permit, or certificate issued to the owner or operator under that title, section, or subchapter, as applicable.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.

Sec. 91.703. TEMPORARY CONNECTION. The provisions of this subchapter do not prevent a temporary connection with a well in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of the well to secure the certificate.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.

Sec. 91.704. CANCELLATION OF CERTIFICATE. The commission may cancel any certificate of compliance issued under the provisions of this subchapter if it appears that the owner or operator of a well covered by the provisions of the certificate, in the operation of the well or the production of oil or gas from the well, has violated or is violating this title, Section 26.131, Water Code, or Subchapter C, Chapter 27, Water Code, a rule adopted or order issued under that title, section, or subchapter, as applicable, or a license, permit, or certificate

issued to the owner or operator under that title, section, or subchapter, as applicable. Before canceling a certificate of compliance, the commission shall give notice to the owner or operator by personal service or by registered or certified mail of the facts or conduct alleged to warrant the cancellation and shall give the owner or operator an opportunity to show compliance with all requirements of law for retention of the certificate as required by Section 2001.054, Government Code.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.

Sec. 91.705. EFFECT OF CANCELLATION ON OPERATOR OF PIPELINE OR OTHER CARRIER. (a) On notice from the commission to the operator of a pipeline or other carrier connected to a well that the certificate of compliance pertaining to that well has been cancelled, the operator of the pipeline or other carrier shall disconnect from the well.

(b) It shall be unlawful for the operator of a pipeline or other carrier to reconnect to the well until a new certificate of compliance has been issued by the commission.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.

Sec. 91.706. EFFECT OF CANCELLATION ON OWNER OR OPERATOR OF WELL. (a) On notice from the commission that a certificate of compliance for a well has been cancelled, it shall be unlawful for the owner or operator of the well to use the well for production, injection, or disposal until a new certificate of compliance covering the well has been issued by the commission.

(b) If an operator uses or reports use of a well for production, injection, or disposal for which the operator's

certificate of compliance has been cancelled, the commission may refuse to renew the operator's organization report required by Section 91.142 until the operator pays the fee required by Section 91.707 and the commission issues the certificate of compliance required for that well.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.

Sec. 91.707. FEE FOR REISSUED CERTIFICATE. (a) If a certificate of compliance for a well has been canceled for one or more violations of provisions of this title, Section 26.131, Water Code, or Subchapter C, Chapter 27, Water Code, rules adopted or orders issued under that title, section, or subchapter, as applicable, or licenses, permits, or certificates issued to the owner or operator of the well under that title, section, or subchapter, as applicable, the commission may not issue a new certificate of compliance until the owner or operator submits to the commission a nonrefundable fee of $300 for each severance or seal order issued for the well.

(b) Fees collected under this section shall be deposited to the oil and gas regulation and cleanup fund.

Redesignated from Natural Resources Code, Subchapter E, Chapter 85 and amended by Acts 2007, 80th Leg., R.S., Ch. 816 (S.B. 1670), Sec. 1, eff. September 1, 2007.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.24, eff. September 28, 2011.

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SUBCHAPTER R. AUTHORIZATION FOR MULTIPLE OR ALTERNATIVE USES OF WELLS

Sec. 91.801. RULES AUTHORIZING MULTIPLE OR ALTERNATIVE USES OF WELLS. The commission shall adopt rules allowing:

(1) a person to obtain a permit for a well from the commission that authorizes the well to be used for multiple purposes; and

(2) an operator of a well authorized by a permit issued by the commission to convert the well from its authorized purpose to a new or additional purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 6, eff. September 1, 2009.

Sec. 91.802. LAW APPLICABLE TO GEOLOGIC STORAGE FACILITIES AND ASSOCIATED INJECTION WELLS. (a) In this section, "anthropogenic carbon dioxide injection well" has the meaning assigned by Section 27.002, Water Code.

(b) If a well is authorized as or converted to an anthropogenic carbon dioxide injection well for geologic storage, Subchapter C-1, Chapter 27, Water Code, applies to the well.

(c) A conversion of an anthropogenic carbon dioxide injection well from use for enhanced recovery operations to use for geologic storage is not considered to be a change in the purpose of the well.

Added by Acts 2009, 81st Leg., R.S., Ch. 224 (S.B. 1387), Sec. 6, eff. September 1, 2009.

END OF TEXAS NATURAL RESOURCES CODE CHAPTER 91 STATUTES

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE

CHAPTER 2001. ADMINISTRATIVE PROCEDURE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2001.001. PURPOSE. It is the public policy of the state through this chapter to:

(1) provide minimum standards of uniform practice and procedure for state agencies;

(2) provide for public participation in the rulemaking process; and

(3) restate the law of judicial review of state agency action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.002. SHORT TITLE. This chapter may be cited as the Administrative Procedure Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.003. DEFINITIONS. In this chapter:

(1) "Contested case" means a proceeding, including a ratemaking or licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.

(2) "License" includes the whole or a part of a state agency permit, certificate, approval, registration, or similar form of permission required by law.

(3) "Licensing" includes a state agency process relating to the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(4) "Party" means a person or state agency named or admitted as a party.

(5) "Person" means an individual, partnership, corporation, association, governmental subdivision, or public or private organization that is not a state agency.

(6) "Rule":

(A) means a state agency statement of general applicability that:

(i) implements, interprets, or prescribes law or policy; or

(ii) describes the procedure or practice requirements of a state agency;

(B) includes the amendment or repeal of a prior rule; and

(C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

(7) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules or determines contested cases. The term includes the State Office of Administrative Hearings for the purpose of determining contested cases. The term does not include:

(A) a state agency wholly financed by federal money;

(B) the legislature;

(C) the courts;

(D) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(E) an institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.007, eff. September 1, 2005.

Sec. 2001.004. REQUIREMENT TO ADOPT RULES OF PRACTICE AND INDEX RULES, ORDERS, AND DECISIONS. In addition to other requirements under law, a state agency shall:

(1) adopt rules of practice stating the nature and requirements of all available formal and informal procedures;

(2) index, cross-index to statute, and make available for public inspection all rules and other written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions; and

(3) index, cross-index to statute, and make available for public inspection all final orders, decisions, and opinions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.0045. REQUIREMENT FOR RULE INCREASING COSTS TO REGULATED PERSONS. (a) In this section, "state agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. This term does not include an agency under the authority of an elected officer of this state.

(b) A state agency rule proposal that contains more than one rule in a single rulemaking action is considered one rule for purposes of this section. Except as provided by Subsection (c), a state agency may not adopt a proposed rule for which the fiscal note for the notice required by Section 2001.024 states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government,

unless on or before the effective date of the proposed rule the state agency:

(1) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or

(2) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule.

(c) This section does not apply to a rule that:

(1) relates to state agency procurement;

(2) is amended to:

(A) reduce the burden or responsibilities imposed on regulated persons by the rule; or

(B) decrease the persons' cost for compliance with the rule;

(3) is adopted in response to a natural disaster;

(4) is necessary to receive a source of federal funds or to comply with federal law;

(5) is necessary to protect water resources of this state as authorized by the Water Code;

(6) is necessary to protect the health, safety, and welfare of the residents of this state;

(7) is adopted by the Department of Family and Protective Services, Texas Department of Motor Vehicles, Parks and Wildlife Department, Public Utility Commission of Texas, Texas Commission on Environmental Quality, or Texas Racing Commission;

(8) is adopted by a self-directed semi-independent agency; or

(9) is necessary to implement legislation, unless the legislature specifically states this section applies to the rule.

(d) Each state agency that adopts a rule subject to this section shall comply with the requirements imposed by Subchapter B and Chapter 2002 for publication in the Texas Register.

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Added by Acts 2017, 85th Leg., R.S., Ch. 819 (H.B. 1290), Sec. 1, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1087 (H.B. 1896), Sec. 1, eff. September 1, 2019.

Sec. 2001.005. RULE, ORDER, OR DECISION NOT EFFECTIVE UNTIL INDEXED. (a) A state agency rule, order, or decision made or issued on or after January 1, 1976, is not valid or effective against a person or party, and may not be invoked by an agency, until the agency has indexed the rule, order, or decision and made it available for public inspection as required by this chapter.

(b) This section does not apply in favor of a person or party that has actual knowledge of the rule, order, or decision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.006. ACTIONS PREPARATORY TO IMPLEMENTATION OF STATUTE OR RULE. (a) In this section:

(1) "State agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code, and includes those entities excluded from the general definition of "state agency" under Section 2001.003(7).

(2) Legislation is considered to have "become law" if it has been passed by the legislature and:

(A) the governor has approved it;

(B) the governor has filed it with the secretary of state, having neither approved nor disapproved it;

(C) the time for gubernatorial action has expired under Section 14, Article IV, Texas Constitution, the governor having neither approved nor disapproved it; or

(D) the governor has disapproved it and the legislature has overridden the governor's disapproval in accordance with Section 14, Article IV, Texas Constitution.

(b) In preparation for the implementation of legislation that has become law but has not taken effect, a state agency may adopt a rule or take other administrative action that the agency determines is necessary or appropriate and that the agency would have been authorized to take had the legislation been in effect at the time of the action.

(c) In preparation for the implementation of a rule that has been finally adopted by a state agency but has not taken effect, a state agency may take administrative action that the agency determines is necessary or appropriate and that the agency would have been authorized to take had the rule been in effect at the time of the action.

(d) A rule adopted under Subsection (b) may not take effect earlier than the legislation being implemented takes effect. Administrative action taken under Subsection (b) or (c) may not result in implementation or enforcement of the applicable legislation or rule before the legislation or rule takes effect.

Added by Acts 1999, 76th Leg., ch. 558, Sec. 1, eff. Sept. 1, 1999.

Sec. 2001.007. CERTAIN EXPLANATORY INFORMATION MADE AVAILABLE THROUGH INTERNET. (a) A state agency shall make available through a generally accessible Internet site:

(1) the text of its rules; and

(2) any material, such as a letter, opinion, or compliance manual, that explains or interprets one or more of its rules and that the agency has issued for general distribution to persons affected by one or more of its rules.

(b) A state agency shall design the generally accessible Internet site so that a member of the public may send questions about the agency's rules to the agency electronically and receive responses to the questions from the agency electronically. If the agency's rules and the agency's explanatory and interpretive materials are made available at different Internet sites, both sites shall be designed in compliance with this subsection.

(c) Repealed by Acts 2005, 79th Leg., Ch. 750, Sec. 2(a), eff. September 1, 2006.

(d) A state agency may comply with this section through the actions of another agency, such as the secretary of state, on the agency's behalf.

Added by Acts 1999, 76th Leg., ch. 1233, Sec. 1, eff. June 18, 1999. Renumbered from Sec. 2001.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(63), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 2(a), eff. September 1, 2006.

SUBCHAPTER B. RULEMAKING

Sec. 2001.021. PETITION FOR ADOPTION OF RULES. (a) An interested person by petition to a state agency may request the adoption of a rule.

(b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition. If a state agency requires signatures for a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state.

(c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:

(1) deny the petition in writing, stating its reasons for the denial; or

(2) initiate a rulemaking proceeding under this subchapter.

(d) For the purposes of this section, an interested person must be:

(1) a resident of this state;

(2) a business entity located in this state;

(3) a governmental subdivision located in this state; or

(4) a public or private organization located in this state that is not a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 343 (H.B. 763), Sec. 1, eff. June 9, 2015.

Sec. 2001.022. LOCAL EMPLOYMENT IMPACT STATEMENTS. (a) A state agency shall determine whether a rule may affect a local economy before proposing the rule for adoption. If a state agency determines that a proposed rule may affect a local economy, the agency shall prepare a local employment impact statement for the proposed rule. The impact statement must describe in detail the probable effect of the rule on employment in each geographic area affected by the rule for each year of the first five years that the rule will be in effect and may include other factors at the agency's discretion.

(b) This section does not apply to the adoption of an emergency rule.

(c) Failure to comply with this section does not impair the legal effect of a rule adopted under this chapter.

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Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 871, Sec. 1, eff. Sept. 1, 2001.

Sec. 2001.0221. GOVERNMENT GROWTH IMPACT STATEMENTS. (a) A state agency shall prepare a government growth impact statement for a proposed rule.

(b) A state agency shall reasonably describe in the government growth impact statement whether, during the first five years that the rule would be in effect:

(1) the proposed rule creates or eliminates a government program;

(2) implementation of the proposed rule requires the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the proposed rule requires an increase or decrease in future legislative appropriations to the agency;

(4) the proposed rule requires an increase or decrease in fees paid to the agency;

(5) the proposed rule creates a new regulation;

(6) the proposed rule expands, limits, or repeals an existing regulation;

(7) the proposed rule increases or decreases the number of individuals subject to the rule's applicability; and

(8) the proposed rule positively or adversely affects this state's economy.

(c) The comptroller shall adopt rules to implement this section. The rules must require that the government growth impact statement be in plain language. The comptroller may prescribe a chart that a state agency may use to disclose the items required under Subsection (b).

(d) Each state agency shall incorporate the impact statement into the notice required by Section 2001.024.

(e) Failure to comply with this section does not impair the legal effect of a rule adopted under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 819 (H.B. 1290), Sec. 2, eff. September 1, 2017.

Sec. 2001.0225. REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES. (a) This section applies only to a major environmental rule adopted by a state agency, the result of which is to:

(1) exceed a standard set by federal law, unless the rule is specifically required by state law;

(2) exceed an express requirement of state law, unless the rule is specifically required by federal law;

(3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or

(4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

(b) Before adopting a major environmental rule subject to this section, a state agency shall conduct a regulatory analysis that:

(1) identifies the problem the rule is intended to address;

(2) determines whether a new rule is necessary to address the problem; and

(3) considers the benefits and costs of the proposed rule in relationship to state agencies, local governments, the public, the regulated community, and the environment.

(c) When giving notice of a major environmental rule subject to this section, a state agency shall incorporate into the fiscal note required by Section 2001.024 a draft impact analysis describing the anticipated effects of the proposed rule. The draft impact analysis, at a minimum, must:

(1) identify the benefits that the agency anticipates from adoption and implementation of the rule, including reduced risks to human health, safety, or the environment;

(2) identify the costs that the agency anticipates state agencies, local governments, the public, and the regulated community will experience after implementation of the rule;

(3) describe the benefits and costs anticipated from implementation of the rule in as quantitative a manner as feasible, but including a qualitative description when a quantitative description is not feasible or adequately descriptive;

(4) describe reasonable alternative methods for achieving the purpose of the rule that were considered by the agency and provide the reasons for rejecting those alternatives in favor of the proposed rule;

(5) identify the data and methodology used in performing the analysis required by this section;

(6) provide an explanation of whether the proposed rule specifies a single method of compliance, and, if so, explain why the agency determines that a specified method of compliance is preferable to adopting a flexible regulatory approach, such as a performance-oriented, voluntary, or market-based approach;

(7) state that there is an opportunity for public comment on the draft impact analysis under Section 2001.029 and that all comments will be addressed in the publication of the final regulatory analysis; and

(8) provide information in such a manner that a reasonable person reading the analysis would be able to identify the impacts of the proposed rule.

(d) After considering public comments submitted under Section 2001.029 and determining that a proposed rule should be adopted, the agency shall prepare a final regulatory analysis that complies with Section 2001.033. Additionally, the agency shall find that, compared to the alternative proposals considered and rejected, the rule will result in the best

combination of effectiveness in obtaining the desired results and of economic costs not materially greater than the costs of any alternative regulatory method considered.

(e) In preparing the draft impact analysis before publication for comment and the final regulatory analysis for the agency order adopting the rule, the state agency shall consider that the purpose of this requirement is to identify for the public and the regulated community the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision. In making its final regulatory decision, the agency shall assess:

(1) all information submitted to it, whether quantitative or qualitative, consistent with generally accepted scientific standards;

(2) actual data where possible; and

(3) assumptions that reflect actual impacts that the regulation is likely to impose.

(f) A person who submitted public comment in accordance with Section 2001.029 may challenge the validity of a major environmental rule that is not proposed and adopted in accordance with the procedural requirements of this section by filing an action for declaratory judgment under Section 2001.038 not later than the 30th day after the effective date of the rule. If a court determines that a major environmental rule was not proposed and adopted in accordance with the procedural requirements of this section, the rule is invalid.

(g) In this section:

(1) "Benefit" means a reasonably identifiable, significant, direct or indirect, favorable effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(2) "Cost" means a reasonably identifiable, significant, direct or indirect, adverse effect, including a quantifiable or nonquantifiable environmental, health, or

economic effect, that is expected to result from implementation of a rule.

(3) "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

(h) The requirements of this section do not apply to state agency rules that are proposed or adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

Added by Acts 1997, 75th Leg., ch. 1034, Sec. 1, eff. Sept. 1, 1997.

Sec. 2001.023. NOTICE OF PROPOSED RULE. (a) A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule.

(b) A state agency shall file notice of the proposed rule with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

Text of subsection effective on September 01, 2023

(c) At the time a state agency files notice of a proposed rule under Subsection (b), the agency shall publish on the agency's Internet website a summary of the proposed rule written in plain language in both English and Spanish in accordance with Section 2054.116.

Text of subsection effective on September 01, 2023

(d) For purposes of Subsection (c), a summary is written in plain language if it uses language the general public, including individuals with limited English proficiency, can

readily understand because the language is concise and well-organized.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 802 (H.B. 1322), Sec. 1, eff. September 1, 2023.

Sec. 2001.024. CONTENT OF NOTICE. (a) The notice of a proposed rule must include:

(1) a brief explanation of the proposed rule;

(2) the text of the proposed rule, except any portion omitted under Section 2002.014, prepared in a manner to indicate any words to be added or deleted from the current text;

(3) a statement of the statutory or other authority under which the rule is proposed to be adopted, including:

(A) a concise explanation of the particular statutory or other provisions under which the rule is proposed;

(B) the section or article of the code affected; and

(C) a certification that the proposed rule has been reviewed by legal counsel and found to be within the state agency's authority to adopt;

(4) a fiscal note showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A) the additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule;

(B) the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

(C) the estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule; and

(D) if applicable, that enforcing or administering the rule does not have foreseeable implications relating to cost or revenues of the state or local governments;

(5) a note about public benefits and costs showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A) the public benefits expected as a result of adoption of the proposed rule; and

(B) the probable economic cost to persons required to comply with the rule;

(6) the local employment impact statement prepared under Section 2001.022, if required;

(7) a request for comments on the proposed rule from any interested person; and

(8) any other statement required by law.

(b) In the notice of a proposed rule that amends any part of an existing rule:

(1) the text of the entire part of the rule being amended must be set out;

(2) the language to be deleted must be bracketed and stricken through; and

(3) the language to be added must be underlined.

(c) In the notice of a proposed rule that is new or that adds a complete section to an existing rule, the new rule or section must be set out and underlined.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1997.

Sec. 2001.025. EFFECTIVE DATE OF NOTICE. Notice of a proposed rule becomes effective as notice when published in the Texas Register, except as provided by Section 2001.028.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.026. NOTICE TO PERSONS REQUESTING ADVANCE NOTICE OF PROPOSED RULES. A state agency shall mail notice of a proposed rule to each person who has made a timely written request of the agency for advance notice of its rulemaking proceedings. Failure to mail the notice does not invalidate an action taken or rule adopted.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.027. WITHDRAWAL OF PROPOSED RULE. A proposed rule is withdrawn six months after the date of publication of notice of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.028. NOTICE OF PROPOSED LAW ENFORCEMENT RULES. Notice of the adoption of a proposed rule by the Commission on Jail Standards or the Texas Commission on Law Enforcement that affects a law enforcement agency of the state or of a political subdivision of the state is not effective until the notice is:

(1) published as required by Section 2001.023; and

(2) mailed to each law enforcement agency that may be affected by the proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.35, eff. May 18, 2013.

Sec. 2001.029. PUBLIC COMMENT. (a) Before adopting a rule, a state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing.

(b) A state agency shall grant an opportunity for a public hearing before it adopts a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental subdivision or agency; or

(3) an association having at least 25 members.

(c) A state agency shall consider fully all written and oral submissions about a proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.030. STATEMENT OF REASONS FOR OR AGAINST ADOPTION. On adoption of a rule, a state agency, if requested to do so by an interested person either before adoption or not later than the 30th day after the date of adoption, shall issue a concise statement of the principal reasons for and against its adoption. The agency shall include in the statement its reasons for overruling the considerations urged against adoption.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.031. INFORMAL CONFERENCES AND ADVISORY COMMITTEES. (a) A state agency may use an informal conference

or consultation to obtain the opinions and advice of interested persons about contemplated rulemaking.

(b) A state agency may appoint committees of experts or interested persons or representatives of the public to advise the agency about contemplated rulemaking.

(c) The power of a committee appointed under this section is advisory only.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.032. LEGISLATIVE REVIEW. (a) Each house of the legislature by rule shall establish a process under which the presiding officer of each house refers each proposed state agency rule to the appropriate standing committee for review before the rule is adopted.

(b) On receiving a written request from the lieutenant governor, a member of the legislature, or a legislative agency, the secretary of state shall provide the requestor with electronic notification of rulemaking filings by a state agency under Section 2001.023.

(c) On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 906 (S.B. 791), Sec. 2, eff. September 1, 2011.

Sec. 2001.033. STATE AGENCY ORDER ADOPTING RULE. (a) A state agency order finally adopting a rule must include:

(1) a reasoned justification for the rule as adopted consisting solely of:

(A) a summary of comments received from parties interested in the rule that shows the names of interested groups or associations offering comment on the rule and whether they were for or against its adoption;

(B) a summary of the factual basis for the rule as adopted which demonstrates a rational connection between the factual basis for the rule and the rule as adopted; and

(C) the reasons why the agency disagrees with party submissions and proposals;

(2) a concise restatement of the particular statutory provisions under which the rule is adopted and of how the agency interprets the provisions as authorizing or requiring the rule; and

(3) a certification that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

(b) Nothing in this section shall be construed to require additional analysis of alternatives not adopted by an agency beyond that required by Subdivision (1)(C) or to require the reasoned justification to be stated separately from the statements required in Subdivision (1).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 558, Sec. 2, eff. Sept. 1, 1999.

Sec. 2001.034. EMERGENCY RULEMAKING. (a) A state agency may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and a hearing that it finds practicable, if the agency:

(1) finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice; and

(2) states in writing the reasons for its finding under Subdivision (1).

(b) A state agency shall set forth in an emergency rule's preamble the finding required by Subsection (a).

(c) A rule adopted under this section may be effective for not longer than 120 days and may be renewed once for not longer than 60 days. An identical rule may be adopted under Sections 2001.023 and 2001.029.

(d) A state agency shall file an emergency rule adopted under this section and the agency's written reasons for the adoption in the office of the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.035. SUBSTANTIAL COMPLIANCE REQUIREMENT; TIME LIMIT ON PROCEDURAL CHALLENGE. (a) A rule is voidable unless a state agency adopts it in substantial compliance with Sections 2001.0225 through 2001.034.

(b) A person must initiate a proceeding to contest a rule on the ground of noncompliance with the procedural requirements of Sections 2001.0225 through 2001.034 not later than the second anniversary of the effective date of the rule.

(c) A state agency substantially complies with the requirements of Section 2001.033 if the agency's reasoned justification demonstrates in a relatively clear and logical fashion that the rule is a reasonable means to a legitimate objective.

(d) A mere technical defect that does not result in prejudice to a person's rights or privileges is not grounds for invalidation of a rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 558, Sec. 3, eff. Sept. 1, 1999.

Sec. 2001.036. EFFECTIVE DATE OF RULES; EFFECT OF FILING WITH SECRETARY OF STATE. (a) A rule takes effect 20 days after the date on which it is filed in the office of the secretary of state, except that:

(1) if a later date is required by statute or specified in the rule, the later date is the effective date;

(2) if a state agency finds that an expedited effective date is necessary because of imminent peril to the public health, safety, or welfare, and subject to applicable constitutional or statutory provisions, a rule is effective immediately on filing with the secretary of state, or on a stated date less than 20 days after the filing date; and

(3) if a federal statute or regulation requires that a state agency implement a rule by a certain date, the rule is effective on the prescribed date.

(b) A state agency shall file with its rule the finding described by Subsection (a)(2), if applicable, and a brief statement of the reasons for the finding. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them.

(c) A rule adopted as provided by Subsection (a)(3) shall be filed in the office of the secretary of state and published in the Texas Register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.037. OFFICIAL TEXT OF RULE. If a conflict exists, the official text of a rule is the text on file with the secretary of state and not the text published in the Texas Register or on file with the issuing state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.038. DECLARATORY JUDGMENT. (a) The validity or applicability of a rule, including an emergency rule adopted under Section 2001.034, may be determined in an action for declaratory judgment if it is alleged that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the plaintiff.

(b) The action may be brought only in a Travis County district court.

(c) The state agency must be made a party to the action.

(d) A court may render a declaratory judgment without regard to whether the plaintiff requested the state agency to rule on the validity or applicability of the rule in question.

(e) An action brought under this section may not be used to delay or stay a hearing in which a suspension, revocation, or cancellation of a license by a state agency is at issue before the agency after notice of the hearing has been given.

(f) A Travis County district court in which an action is brought under this section, on its own motion or the motion of any party, may request transfer of the action to the Court of Appeals for the Third Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the validity or applicability of the rule in question is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of the court of appeals. The court of appeals may direct the district court to

conduct any necessary evidentiary hearings in connection with the action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 894, Sec. 1, eff. Sept. 1, 1999.

Sec. 2001.039. AGENCY REVIEW OF EXISTING RULES. (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.

(b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.

(c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

(d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.

(e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.11(a), eff. Sept. 1, 1999.

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Sec. 2001.040. SCOPE AND EFFECT OF ORDER INVALIDATING AGENCY RULE. If a court finds that an agency has not substantially complied with one or more procedural requirements of Sections 2001.0225 through 2001.034, the court may remand the rule, or a portion of the rule, to the agency and, if it does so remand, shall provide a reasonable time for the agency to either revise or readopt the rule through established procedure. During the remand period, the rule shall remain effective unless the court finds good cause to invalidate the rule or a portion of the rule, effective as of the date of the court's order.

Added by Acts 1999, 76th Leg., ch. 558, Sec. 4, eff. Sept. 1, 1999. Renumbered from Sec. 2001.039 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(64), eff. Sept. 1, 2001.

Sec. 2001.041. COMPLIANCE WITH LAW ON DECENTRALIZATION. A state agency rule, order, or guide relating to decentralization of agency services or programs must include a statement of the manner in which the agency complied with Section 391.0091, Local Government Code.

Added by Acts 2003, 78th Leg., ch. 718, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER C. CONTESTED CASES: GENERAL RIGHTS AND PROCEDURES

Sec. 2001.051. OPPORTUNITY FOR HEARING AND PARTICIPATION; NOTICE OF HEARING. In a contested case, each party is entitled to an opportunity:

(1) for hearing after reasonable notice of not less than 10 days; and

(2) to respond and to present evidence and argument on each issue involved in the case.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.052. CONTENTS OF NOTICE. (a) Notice of a hearing in a contested case must include:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) either:

(A) a short, plain statement of the factual matters asserted; or

(B) an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.

(b) If a state agency or other party is unable to state factual matters in detail at the time notice under this section is served, an initial notice may be limited to a statement of the issues involved. On timely written application, a more definite and detailed statement of the facts shall be furnished not less than seven days before the date set for the hearing. In a proceeding in which the state agency has the burden of proof, a state agency that intends to rely on a section of a statute or rule not previously referenced in the notice of hearing must amend the notice, or the complaint or petition, if applicable, to refer to the section of the statute or rule not later than the seventh day before the date set for the hearing. This subsection does not prohibit the state agency from filing an amendment during the hearing of a contested case provided the opposing party is granted a continuance of at least seven days to prepare its case on request of the opposing party.

(c) In a suit for judicial review of a final decision or order of a state agency in a contested case, the state agency's

failure to comply with Subsection (a)(3) or (b) shall constitute prejudice to the substantial rights of the appellant under Section 2001.174(2) unless the court finds that the failure did not unfairly surprise and prejudice the appellant or that the appellant waived the appellant's rights.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 1, eff. September 1, 2017.

Sec. 2001.053. RIGHT TO COUNSEL. (a) Each party to a contested case is entitled to the assistance of counsel before a state agency.
(b) A party may expressly waive the right to assistance of counsel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.054. LICENSES. (a) The provisions of this chapter concerning contested cases apply to the grant, denial, or renewal of a license that is required to be preceded by notice and opportunity for hearing.
(b) If a license holder makes timely and sufficient application for the renewal of a license or for a new license for an activity of a continuing nature, the existing license does not expire until the application has been finally determined by the state agency. If the application is denied or the terms of the new license are limited, the existing license does not expire until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) A revocation, suspension, annulment, or withdrawal of a license is not effective unless, before institution of state agency proceedings:

(1) the agency gives notice by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action; and

(2) the license holder is given an opportunity to show compliance with all requirements of law for the retention of the license.

(c-1) A state agency that has been granted the power to summarily suspend a license under another statute may determine that an imminent peril to the public health, safety, or welfare requires emergency action and may issue an order to summarily suspend the license holder's license pending proceedings for revocation or other action, provided that the agency incorporates a factual and legal basis establishing that imminent peril in the order. Unless expressly provided otherwise by another statute, the agency shall initiate the proceedings for revocation or other action not later than the 30th day after the date the summary suspension order is signed. The proceedings must be promptly determined, and if the proceedings are not initiated before the 30th day after the date the order is signed, the license holder may appeal the summary suspension order to a Travis County district court. This subsection does not grant any state agency the power to suspend a license without notice and an opportunity for a hearing.

(d) A license described in Subsection (a) remains valid unless it expires without timely application for renewal, is amended, revoked, suspended, annulled, or withdrawn, or the denial of a renewal application becomes final. The term or duration of a license described in Subsection (a) is tolled during the period the license is subjected to judicial review. However, the term or duration of a license is not tolled if, during judicial review, the licensee engages in the activity for which the license was issued.

(e) In a suit for judicial review of a final decision or order of a state agency brought by a license holder, the agency's failure to comply with Subsection (c) shall constitute prejudice to the substantial rights of the license holder under Section 2001.174(2) unless the court determines that the failure did not unfairly surprise and prejudice the license holder or that the license holder waived the opportunity provided in Subsection (c)(2) to show compliance with all requirements of law for the retention of the license.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 589, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 2, eff. September 1, 2017.

Sec. 2001.055. INTERPRETERS FOR DEAF OR HEARING IMPAIRED PARTIES AND WITNESSES. (a) In a contested case, a state agency shall provide an interpreter whose qualifications are approved by the Texas Commission for the Deaf and Hard of Hearing to interpret the proceedings for a party or subpoenaed witness who is deaf or hearing impaired.

(b) In this section, "deaf or hearing impaired" means having a hearing impairment, whether or not accompanied by a speech impairment, that inhibits comprehension of the proceedings or communication with others.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 18, eff. Sept. 1, 1995.

Sec. 2001.056. INFORMAL DISPOSITION OF CONTESTED CASE. Unless precluded by law, an informal disposition may be made of a contested case by:

(1) stipulation;

(2) agreed settlement;

(3) consent order; or

(4) default.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.057. CONTINUANCES. (a) A state agency may continue a hearing in a contested case from time to time and from place to place.

(b) The notice of the hearing must indicate the times and places at which the hearing may be continued.

(c) If a hearing is not concluded on the day it begins, a state agency shall, to the extent possible, proceed with the hearing on each subsequent working day until the hearing is concluded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.058. HEARING CONDUCTED BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) This section applies only to an administrative law judge employed by the State Office of Administrative Hearings.

(b) An administrative law judge who conducts a contested case hearing shall consider applicable agency rules or policies in conducting the hearing, but the state agency deciding the case may not supervise the administrative law judge.

(c) A state agency shall provide the administrative law judge with a written statement of applicable rules or policies.

(d) A state agency may not attempt to influence the finding of facts or the administrative law judge's application

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of the law in a contested case except by proper evidence and legal argument.

(d-1) On making a finding that a party to a contested case has defaulted under the rules of the State Office of Administrative Hearings, the administrative law judge may dismiss the case from the docket of the State Office of Administrative Hearings and remand it to the referring agency for informal disposition under Section 2001.056. After the case is dismissed and remanded, the agency may informally dispose of the case by applying its own rules or the procedural rules of the State Office of Administrative Hearings relating to default proceedings. This subsection does not apply to a contested case in which the administrative law judge is authorized to render a final decision.

(e) A state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under Subsection (c), or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

The agency shall state in writing the specific reason and legal basis for a change made under this subsection.

(e-1) Notwithstanding Subsection (e), a state agency may not vacate or modify an order of an administrative law judge that awards attorney's fees and costs under Section 2001.903.

(f) A state agency by rule may provide that, in a contested case before the agency that concerns licensing in relation to an occupational license and that is not disposed of by stipulation, agreed settlement, or consent order, the

administrative law judge shall render the final decision in the contested case. If a state agency adopts such a rule, the following provisions apply to contested cases covered by the rule:

(1) the administrative law judge shall render the decision that may become final under Section 2001.144 not later than the 60th day after the latter of the date on which the hearing is finally closed or the date by which the judge has ordered all briefs, reply briefs, and other posthearing documents to be filed, and the 60-day period may be extended only with the consent of all parties, including the occupational licensing agency;

(2) the administrative law judge shall include in the findings of fact and conclusions of law a determination whether the license at issue is primarily a license to engage in an occupation;

(3) the State Office of Administrative Hearings is the state agency with which a motion for rehearing or a reply to a motion for rehearing is filed under Section 2001.146 and is the state agency that acts on the motion or extends a time period under Section 2001.146;

(4) the State Office of Administrative Hearings is the state agency responsible for sending a copy of the decision that may become final under Section 2001.144 or an order ruling on a motion for rehearing to the parties, including the occupational licensing agency, in accordance with Section 2001.142; and

(5) the occupational licensing agency and any other party to the contested case is entitled to obtain judicial review of the final decision in accordance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1167, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 504 (S.B. 27), Sec. 5, eff. September 1, 2019.

Sec. 2001.059. TRANSCRIPT. (a) On the written request of a party to a contested case, proceedings, or any part of the proceedings, shall be transcribed.

(b) A state agency may pay the cost of a transcript or may assess the cost to one or more parties.

(c) This chapter does not limit a state agency to a stenographic record of proceedings.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.060. RECORD. The record in a contested case includes:

(1) each pleading, motion, and intermediate ruling;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on them;

(5) proposed findings and exceptions;

(6) each decision, opinion, or report by the officer presiding at the hearing; and

(7) all staff memoranda or data submitted to or considered by the hearing officer or members of the agency who are involved in making the decision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.061. EX PARTE CONSULTATIONS. (a) Unless required for the disposition of an ex parte matter authorized by

law, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not directly or indirectly communicate in connection with an issue of fact or law with a state agency, person, party, or a representative of those entities, except on notice and opportunity for each party to participate.

(b) A state agency member may communicate ex parte with another member of the agency unless prohibited by other law.

(c) Under Section 2001.090, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with an agency employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.062. EXAMINATION OF RECORD BY STATE AGENCY; PROPOSAL FOR DECISION. (a) In a contested case, if a majority of the state agency officials who are to render a final decision have not heard the case or read the record, the decision, if adverse to a party other than the agency itself, may not be made until:

(1) a proposal for decision is served on each party; and

(2) an opportunity is given to each adversely affected party to file exceptions and present briefs to the officials who are to render the decision.

(b) If a party files exceptions or presents briefs, an opportunity shall be given to each other party to file replies to the exceptions or briefs.

(c) A proposal for decision must contain a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.

The statement must be prepared by the individual who conducted the hearing or by one who has read the record.

(d) A proposal for decision may be amended in response to exceptions, replies, or briefs submitted by the parties without again being served on the parties.

(e) The parties by written stipulation may waive compliance with this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. CONTESTED CASES: EVIDENCE, WITNESSES, AND DISCOVERY

Sec. 2001.081. RULES OF EVIDENCE. The rules of evidence as applied in a nonjury civil case in a district court of this state shall apply to a contested case except that evidence inadmissible under those rules may be admitted if the evidence is:

(1) necessary to ascertain facts not reasonably susceptible of proof under those rules;

(2) not precluded by statute; and

(3) of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.082. EXCLUSION OF EVIDENCE. In a contested case, evidence that is irrelevant, immaterial, or unduly repetitious shall be excluded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

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Sec. 2001.083. PRIVILEGE. In a contested case, a state agency shall give effect to the rules of privilege recognized by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.084. OBJECTIONS TO EVIDENCE. An objection to an evidentiary offer in a contested case may be made and shall be noted in the record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.085. WRITTEN EVIDENCE. Subject to the requirements of Sections 2001.081 through 2001.084, any part of the evidence in a contested case may be received in writing if:

(1) a hearing will be expedited; and

(2) the interests of the parties will not be substantially prejudiced.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.086. DOCUMENTARY EVIDENCE. A copy or excerpt of documentary evidence may be received in a contested case if an original document is not readily available. On request, a party shall be given an opportunity to compare the copy or excerpt with the original document.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.087. CROSS-EXAMINATION. In a contested case, a party may conduct cross-examination required for a full and true disclosure of the facts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.088. WITNESSES. A state agency may swear witnesses and take their testimony under oath in connection with a contested case held under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.089. ISSUANCE OF SUBPOENA. On its own motion or on the written request of a party to a contested case pending before it, a state agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purposes of a proceeding if:

(1) good cause is shown; and

(2) an amount is deposited that will reasonably ensure payment of the amounts estimated to accrue under Section 2001.103.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.090. OFFICIAL NOTICE; STATE AGENCY EVALUATION OF EVIDENCE. (a) In connection with a hearing held under this chapter, official notice may be taken of:

(1) all facts that are judicially cognizable; and

(2) generally recognized facts within the area of the state agency's specialized knowledge.

(b) Each party shall be notified either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information.

(c) Each party is entitled to be given an opportunity to contest material that is officially noticed.

(d) The special skills or knowledge of the state agency and its staff may be used in evaluating the evidence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.091. DISCOVERY FROM PARTIES: ORDERS FOR PRODUCTION OR INSPECTION. (a) On the motion of a party, on notice to each other party, and subject to limitations of the kind provided for discovery under the Texas Rules of Civil Procedure, a state agency in which a contested case is pending may order a party:

(1) to produce and to permit the party making the motion or a person on behalf of that party to inspect and to copy or photograph a designated document, paper, book, account, letter, photograph, or tangible thing in the party's possession, custody, or control that:

(A) is not privileged; and

(B) constitutes or contains, or is reasonably calculated to lead to the discovery of, evidence that is material to a matter involved in the contested case; and

(2) to permit entry to designated land or other property in the party's possession or control to inspect, measure, survey, or photograph the property or a designated object or operation on the property that may be material to a matter involved in the contested case.

(b) An order under this section:

(1) must specify the time, place, and manner of making the inspection, measurement, or survey or of making copies or photographs; and

(2) may prescribe other terms and conditions that are just.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.092. DISCOVERY FROM PARTIES: IDENTITY OF WITNESS OR POTENTIAL PARTY; EXPERT REPORTS. (a) The identity and location of a potential party or witness in a contested case may be obtained from a communication or other paper in a party's possession, custody, or control.

(b) A party may be required to produce and permit the inspection and copying of a report, including factual observations and opinions, of an expert who will be called as a witness.

(c) This section does not extend to other communications:

(1) made after the occurrence or transaction on which the contested case is based;

(2) made in connection with the prosecution, investigation, or defense of the contested case or the circumstances from which the case arose; and

(3) that are:

(A) written statements of witnesses;

(B) in writing and between agents, representatives, or employees of a party; or

(C) between a party and the party's agent, representative, or employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.093. DISCOVERY FROM PARTIES: COPY OF PREVIOUS STATEMENT. (a) On request, a person, including a person who is not a party, is entitled to obtain a copy of a statement in a party's possession, custody, or control that the person has previously made about the contested case or its subject matter.

(b) A person whose request under Subsection (a) is refused may move for a state agency order under Section 2001.091.

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(c) In this section, a statement is considered to be previously made if it is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription of the recording, which is a substantially verbatim recital of an oral statement by the person making it and that was contemporaneously recorded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.094. ISSUANCE OF COMMISSION REQUIRING DEPOSITION. (a) On its own motion or on the written request of a party to a contested case pending before it, and on deposit of an amount that will reasonably ensure payment of the amount estimated to accrue under Section 2001.103, a state agency shall issue a commission, addressed to the officers authorized by statute to take a deposition, requiring that the deposition of a witness be taken.

(b) The commission shall authorize the issuance of any subpoena necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects that may be necessary and proper for the purpose of the proceeding.

(c) The commission shall require an officer to whom it is addressed to:

(1) examine the witness before the officer on the date and at the place named in the commission; and

(2) take answers under oath to questions asked the witness by a party to the proceeding, the state agency, or an attorney for a party or the agency.

(d) The commission shall require the witness to remain in attendance from day to day until the deposition is begun and completed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.095. DEPOSITION OF STATE AGENCY BOARD MEMBER. The deposition of a member of a state agency board may not be taken after a date has been set for hearing in a contested case.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.096. PLACE OF DEPOSITION. A deposition in a contested case shall be taken in the county where the witness:

(1) resides;

(2) is employed; or

(3) regularly transacts business in person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.097. OBJECTIONS TO DEPOSITION TESTIMONY. (a) The officer taking an oral deposition in a contested case may not:

(1) sustain an objection to the testimony taken; or

(2) exclude testimony.

(b) An objection to deposition testimony is reserved for the action of the state agency before which the matter is pending.

(c) The administrator or other officer conducting the contested case hearing may consider objections other than those made at the taking of the testimony.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.098. PREPARATION OF DEPOSITION. (a) A deposition witness in a contested case shall be carefully examined.

(b) The testimony shall be reduced to writing or typewriting by the officer taking the deposition, a person under the officer's personal supervision, or the deposition witness in the officer's presence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.099. SUBMISSION OF DEPOSITION TO WITNESS; SIGNATURE. (a) A deposition in a contested case shall be submitted to the witness for examination after the testimony is fully transcribed and shall be read to or by the witness.

(b) The witness and the parties may waive in writing the examination and reading of a deposition under Subsection (a).

(c) If the witness is a party to the contested case pending before the agency with an attorney of record, the deposition officer shall notify the attorney of record in writing by registered or certified mail that the deposition is ready for examination and reading at the office of the deposition officer and that if the witness does not appear and examine, read, and sign the deposition before the 21st day after the date on which the notice is mailed, the deposition shall be returned as provided by this subchapter for unsigned depositions.

(d) A witness must sign a deposition at least three days before the date of the hearing or the deposition shall be returned as an unsigned deposition as provided by this subchapter.

(e) The officer taking a deposition shall enter on the deposition:

(1) a change in form or substance that the witness desires to make; and

(2) a statement of the reasons given by the witness for making the change.

(f) After the deposition officer has entered any change and a statement of reasons for the change on the deposition under Subsection (e), the witness shall sign the deposition unless:

(1) the parties present at the taking of the deposition by stipulation waive the signing;

(2) the witness is ill;

(3) the witness cannot be found; or

(4) the witness refuses to sign.

(g) If a deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the witness's waiver, illness, absence, or refusal to sign and the reason given, if any, for failure to sign. The deposition may then be used as though signed by the witness.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.100. RETURN OF DEPOSITION TO STATE AGENCY. (a) A deposition may be returned to the state agency before which the contested case is pending by mail or by a party interested in taking the deposition or another person.

(b) For a deposition returned by mail, the state agency shall:

(1) endorse on the deposition the fact that it was received from the post office; and

(2) have it signed by the agency employee receiving the deposition.

(c) For a deposition returned by means other than mail, the person delivering it to the state agency shall execute an affidavit before the agency stating that:

(1) the person received it from the hands of the officer before whom it was taken;

(2) it has not been out of the person's possession since the person received it; and

(3) it has not been altered.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.101. OPENING OF DEPOSITION BY STATE AGENCY EMPLOYEE. (a) At the request of a party or the party's counsel, a deposition in a contested case that is filed with a state agency may be opened by an employee of the agency.

(b) A state agency employee who opens a deposition shall:

(1) endorse on the deposition the day and at whose request it was opened; and

(2) sign the deposition.

(c) The deposition shall remain on file with the state agency for the inspection of any party.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.102. USE OF DEPOSITION. A party is entitled to use a deposition taken under this subchapter in the contested case pending before the state agency without regard to whether a cross-interrogatory has been propounded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.103. EXPENSES OF WITNESS OR DEPONENT. (a) A witness or deponent in a contested case who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of a proceeding under this chapter is entitled to receive:

(1) 10 cents for each mile, or a greater amount prescribed by state agency rule, for going to and returning from the place of the hearing or deposition if the place is more than 25 miles from the person's place of residence and the person uses the person's personally owned or leased motor vehicle for the travel;

(2) reimbursement of the transportation expenses of the witness or deponent for going to and returning from the place where the hearing is held or the deposition is taken, if the place is more than 25 miles from the person's place of residence and the person does not use the person's personally owned or leased motor vehicle for the travel;

(3) reimbursement of the meal and lodging expenses of the witness or deponent while going to and returning from the place where the hearing is held or deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(4) $10, or a greater amount prescribed by state agency rule, for each day or part of a day that the person is necessarily present.

(b) Amounts required to be reimbursed or paid under this section shall be reimbursed or paid by the party or agency at whose request the witness appears or the deposition is taken. An agency required to make a payment or reimbursement shall present to the comptroller vouchers:

(1) sworn by the witness or deponent; and

(2) approved by the agency in accordance with Chapter 2103.

(c) An agency may directly pay a commercial transportation company for the transportation expenses or a commercial lodging establishment for the lodging expenses of a witness or deponent if this section otherwise requires the agency to reimburse the witness or deponent for those expenses.

(d) An agency may not pay a commercial transportation company or commercial lodging establishment or reimburse a witness or deponent for transportation, meal, or lodging

expenses under this section at a rate that exceeds the maximum rates provided by law for state employees. An agency may not adopt rules that provide for payment or reimbursement rates that exceed those maximum rates.

(e) In this section:

(1) "Commercial lodging establishment" means a motel, hotel, inn, apartment, or similar entity that offers lodging to the public in exchange for compensation.

(2) "Commercial transportation company" means an entity that offers transportation of people or goods to the public in exchange for compensation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.20(a), eff. Sept. 1, 1995.

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SUBCHAPTER F. CONTESTED CASES: FINAL DECISIONS AND ORDERS; MOTIONS FOR REHEARING

Sec. 2001.141. FORM OF DECISION; FINDINGS OF FACT AND CONCLUSIONS OF LAW. (a) A decision or order of a state agency that may become final under Section 2001.144 that is adverse to any party in a contested case must be in writing and signed by a person authorized by the agency to sign the agency decision or order.

(b) A decision or order that may become final under Section 2001.144 must include findings of fact and conclusions of law, separately stated.

(c) Findings of fact may be based only on the evidence and on matters that are officially noticed.

(d) Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(e) If a party submits under a state agency rule proposed findings of fact or conclusions of law, the decision or order shall include a ruling on each proposed finding or conclusion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 3, eff. September 1, 2015.

Sec. 2001.142. NOTIFICATION OF DECISIONS AND ORDERS. (a) A state agency shall notify each party to a contested case of any decision or order of the agency using at least one of the following methods of service:

(1) personal service;

(2) if agreed to by the party to be notified, service by electronic means sent to the current e-mail address or facsimile number of the party's attorney of record or of the party if the party is not represented by counsel;

(3) service by first class, certified, or registered mail sent to the last known address of the party's attorney of record or of the party if the party is not represented by counsel; or

(4) service by a method required under the state agency's rules or orders for a party to serve copies of pleadings in a contested case.

(b) When a decision or order in a contested case that may become final under Section 2001.144 is signed or when an order ruling on a motion for rehearing is signed, a state agency shall deliver or send a copy of the decision or order to each party in accordance with Subsection (a). The state agency shall keep a record documenting the provision of the notice provided to each party in accordance with Subsection (a).

(c) If an adversely affected party or the party's attorney of record does not receive the notice required by Subsections (a) and (b) or acquire actual knowledge of a signed decision or

order before the 15th day after the date the decision or order is signed, a period specified by or agreed to under Section 2001.144(a), 2001.146, 2001.147, or 2001.176(a) relating to a decision or order or motion for rehearing begins, with respect to that party, on the date the party or the party's attorney of record receives the notice or acquires actual knowledge of the signed decision or order, whichever occurs first. The period may not begin earlier than the 15th day or later than the 45th day after the date the decision or order was signed.

(d) To establish a revised period under Subsection (c), the adversely affected party must prove, on sworn motion and notice, that:

(1) the date the party or the party's attorney of record first received notice from the state agency or acquired actual knowledge of the signing of the decision or order was after the 14th day after the date the decision or order was signed;

(2) the adversely affected party exercised due diligence by keeping the state agency and all other parties to the contested case apprised of the current mailing address and any electronic contact information for the adversely affected party or the adversely affected party's attorney of record; and

(3) the adversely affected party and the party's attorney of record did not take any action that impeded or prevented receipt of notice of the signing of the decision or order.

(e) The state agency or a person authorized to act for the agency must grant or deny the sworn motion not later than the date of the agency's governing board's next meeting or, for a state agency without a governing board with decision-making authority in contested cases, not later than the 10th day after the date the agency receives the sworn motion.

(f) If the state agency or a person authorized to act for the agency fails to grant or deny the motion at the next meeting or before the 10th day after the date the agency receives the motion, as appropriate, the motion is considered granted.

(g) If a sworn motion filed under Subsection (d) is granted with respect to the adversely affected party filing that motion, all the periods specified by or agreed to under Section 2001.144(a), 2001.146, 2001.147, or 2001.176(a) relating to a decision or order, or motion for rehearing, shall begin for the movant on the date specified in the sworn motion that the movant or the movant's attorney of record first received the notice required by Subsections (a) and (b) or acquired actual knowledge of the signed decision or order. The date specified in the sworn motion shall be considered the date the decision or order was signed for the movant. The timely filing of a sworn motion for rehearing under Subsection (d) extends the period for agency action on any motion for rehearing until the 100th day after the date the decision or order subject to the motion for rehearing is signed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 18, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 3, eff. September 1, 2017.

Sec. 2001.143. TIME OF DECISION. (a) A decision or order that may become final under Section 2001.144 in a contested case should be signed not later than the 60th day after the date on which the hearing is finally closed.

(b) In a contested case heard by other than a majority of the officials of a state agency, the agency or the person who conducts the contested case hearing may extend the period in which the decision or order may be signed.

(c) Any extension shall be announced at the conclusion of the hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 6, eff. September 1, 2015.

Sec. 2001.144. DECISIONS OR ORDERS; WHEN FINAL. (a) A decision or order in a contested case is final:

(1) if a motion for rehearing is not filed on time, on the expiration of the period for filing a motion for rehearing;

(2) if a motion for rehearing is timely filed, on the date:

(A) the order overruling the latest filed motion for rehearing is signed; or

(B) the latest filed motion for rehearing is overruled by operation of law;

(3) if a state agency finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision or order is signed, provided that the agency incorporates in the decision or order a factual and legal basis establishing an imminent peril to the public health, safety, or welfare; or

(4) on:

(A) the date specified in the decision or order for a case in which all parties agree to the specified date in writing or on the record; or

(B) if the agreed specified date is before the date the decision or order is signed, the date the decision or order is signed.

(b) If a decision or order is final under Subsection (a)(3), a state agency must recite in the decision or order the

finding made under Subsection (a)(3) and the fact that the decision or order is final and effective on the date signed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 611, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 7, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 4, eff. September 1, 2017.

Sec. 2001.145. MOTIONS FOR REHEARING: PREREQUISITES TO APPEAL. (a) A timely motion for rehearing is a prerequisite to an appeal in a contested case except that a motion for rehearing of a decision or order that is final under Section 2001.144(a)(3) or (4) is not a prerequisite for appeal.
(b) A decision or order that is final under Section 2001.144(a)(2), (3), or (4) is appealable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 611, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 8, eff. September 1, 2015.

Sec. 2001.146. MOTIONS FOR REHEARING: PROCEDURES. (a) A motion for rehearing in a contested case must be filed by a party not later than the 25th day after the date the decision or order that is the subject of the motion is signed, unless the time for filing the motion for rehearing has been extended under Section 2001.142, by an agreement under Section 2001.147, or by a written state agency order issued under Subsection (e). On filing the motion for rehearing, the movant shall send copies of

the motion to all other parties using the notification methods specified by Section 2001.142(a).

(b) A party must file with the state agency a reply, if any, to a motion for rehearing not later than the 40th day after the date the decision or order that is the subject of the motion is signed, or not later than the 10th day after the date a motion for rehearing is filed if the time for filing the motion for rehearing has been extended under Section 2001.142, by an agreement under Section 2001.147, or by a written state agency order under Subsection (e). The party filing the reply shall send copies of the reply to all other parties using the notification methods specified by Section 2001.142(a).

(c) A state agency shall act on a motion for rehearing not later than the 55th day after the date the decision or order that is the subject of the motion is signed or the motion for rehearing is overruled by operation of law.

(d) If a state agency board includes a member who does not receive a salary for work as a board member and who resides outside Travis County, the board may rule on a motion for rehearing at a meeting or by:

(1) mail;

(2) telephone;

(3) telegraph; or

(4) another suitable means of communication.

(e) A state agency or a person authorized to act for the agency may, on its own initiative or on the motion of any party for cause shown, by written order extend the time for filing a motion or reply or taking agency action under this section, provided that the agency or person extends the time or takes the action not later than the 10th day after the date the period for filing a motion or reply or taking agency action expires. An extension may not extend the period for agency action beyond the 100th day after the date the decision or order that is the subject of the motion is signed.

(f) In the event of an extension, a motion for rehearing is overruled by operation of law on the date fixed by the order

or, in the absence of a fixed date, the 100th day after the date the decision or order that is the subject of the motion is signed.

(g) A motion for rehearing must identify with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. The motion must also state the legal and factual basis for the claimed error.

(h) A subsequent motion for rehearing is not required after a state agency rules on a motion for rehearing unless the order disposing of the original motion for rehearing:

(1) modifies, corrects, or reforms in any respect the decision or order that is the subject of the complaint, other than a typographical, grammatical, or other clerical change identified as such by the agency in the order, including any modification, correction, or reformation that does not change the outcome of the contested case; or

(2) vacates the decision or order that is the subject of the motion and provides for a new decision or order.

(i) The time limits and other requirements for filing a subsequent motion for rehearing, a reply to the subsequent motion for rehearing, and a ruling on the subsequent motion for rehearing are governed by this section and Sections 2001.142, 2001.144, 2001.145, and 2001.147.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 9, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 5, eff. September 1, 2017.

Sec. 2001.147. AGREEMENT TO MODIFY TIME LIMITS. The parties to a contested case, with state agency approval, may

agree to modify the times prescribed by Sections 2001.143 and 2001.146.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER G. CONTESTED CASES: JUDICIAL REVIEW

Sec. 2001.171. JUDICIAL REVIEW. A person who has exhausted all administrative remedies available within a state agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.172. SCOPE OF JUDICIAL REVIEW. The scope of judicial review of a state agency decision in a contested case is as provided by the law under which review is sought.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.173. TRIAL DE NOVO REVIEW. (a) If the manner of review authorized by law for the decision in a contested case that is the subject of complaint is by trial de novo, the reviewing court shall try each issue of fact and law in the manner that applies to other civil suits in this state as though there had not been an intervening agency action or decision but may not admit in evidence the fact of prior state agency action or the nature of that action except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court.

(b) On demand, a party to a trial de novo review may have a jury determination of each issue of fact on which a jury

determination could be obtained in other civil suits in this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.174. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE OR UNDEFINED SCOPE OF REVIEW. If the law authorizes review of a decision in a contested case under the substantial evidence rule or if the law does not define the scope of judicial review, a court may not substitute its judgment for the judgment of the state agency on the weight of the evidence on questions committed to agency discretion but:

(1) may affirm the agency decision in whole or in part; and

(2) shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(A) in violation of a constitutional or statutory provision;

(B) in excess of the agency's statutory authority;

(C) made through unlawful procedure;

(D) affected by other error of law;

(E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or

(F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

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Sec. 2001.175. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL EVIDENCE RULE OR UNDEFINED SCOPE OF REVIEW. (a) The procedures of this section apply if the manner of review authorized by law for the decision in a contested case that is the subject of complaint is other than by trial de novo.

(b) After service of the petition on a state agency and within the time permitted for filing an answer or within additional time allowed by the court, the agency shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party is subject to a rule adopted under Section 2001.177 requiring payment of all costs of record preparation. The court may require or permit later corrections or additions to the record.

(c) A party may apply to the court to present additional evidence. If the court is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the state agency, the court may order that the additional evidence be taken before the agency on conditions determined by the court. The agency may change its findings and decision by reason of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the reviewing court.

(d) The party seeking judicial review shall offer, and the reviewing court shall admit, the state agency record into evidence as an exhibit.

(e) A court shall conduct the review sitting without a jury and is confined to the agency record, except that the court may receive evidence of procedural irregularities alleged to have occurred before the agency that are not reflected in the record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.176. PETITION INITIATING JUDICIAL REVIEW. (a) A person initiates judicial review in a contested case by filing a petition not later than the 30th day after the date the decision or order that is the subject of complaint is final and appealable. In a contested case in which a motion for rehearing is a prerequisite for seeking judicial review, a prematurely filed petition is effective to initiate judicial review and is considered to be filed:

(1) on the date the last timely motion for rehearing is overruled; and

(2) after the motion is overruled.

(b) Unless otherwise provided by statute:

(1) the petition must be filed in a Travis County district court;

(2) a copy of the petition must be served on the state agency and each party of record in the proceedings before the agency; and

(3) the filing of the petition vacates a state agency decision for which trial de novo is the manner of review authorized by law but does not affect the enforcement of an agency decision for which another manner of review is authorized.

(c) A Travis County district court in which an action is brought under this section, on its own motion or on motion of any party, may request transfer of the action to the Court of Appeals for the Third Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the

application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the agency decision in the contested case is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of the court of appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 894, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 10, eff. September 1, 2015.

Sec. 2001.177. COST OF PREPARING AGENCY RECORD. (a) A state agency by rule may require a party who appeals a final decision in a contested case to pay all or a part of the cost of preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.1775. MODIFICATION OF AGENCY FINDINGS OR DECISION. Except as provided by Section 2001.175(c), an agency may not modify its findings or decision in a contested case after proceedings for judicial review of the case have been instituted under Section 2001.176 and during the time that the case is under judicial review.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.21(a), eff. Sept. 1, 1995.

Sec. 2001.178. CUMULATIVE EFFECT. This subchapter is cumulative of other means of redress provided by statute.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER H. COURT ENFORCEMENT

Sec. 2001.201. COURT ENFORCEMENT OF SUBPOENA OR COMMISSION. (a) If a person fails to comply with a subpoena or commission issued under this chapter, the state agency issuing the subpoena or commission, acting through the attorney general, or the party requesting the subpoena or commission may bring suit to enforce the subpoena or commission in a district court in Travis County or in the county in which a hearing conducted by the agency may be held.

(b) A court that determines that good cause exists for the issuance of the subpoena or commission shall order compliance with the subpoena or commission. The court may hold in contempt a person who does not obey the order.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.202. COURT ENFORCEMENT OF FINAL ORDERS, DECISIONS, AND RULES. (a) The attorney general, on the request of a state agency to which it appears that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, may bring an action in a district court authorized to exercise judicial review of the final order or decision or the rule to:

(1) enjoin or restrain the continuation or commencement of the violation; or

(2) compel compliance with the final order or decision or the rule.

(b) The action authorized by this section is in addition to any other remedy provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER I. EXCEPTIONS

Sec. 2001.221. DRIVER'S LICENSES. This chapter does not apply to a suspension, revocation, cancellation, denial, or disqualification of a driver's license or commercial driver's license as authorized by:

(1) Subchapter N, Chapter 521, Transportation Code, except Sections 521.304 and 521.305 of that subchapter, or by Subchapter O or P of that chapter;

(2) Chapter 522, Transportation Code;

(3) Chapter 601, Transportation Code; or

(4) Article 42A.406 or 42A.407, Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.22(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.197, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1117, Sec. 7, eff. Sept. 1, 2000.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.62, eff. January 1, 2017.

Sec. 2001.222. STATE AGENCY PERSONNEL RULES AND PRACTICES. This chapter does not apply to matters related solely to the internal personnel rules and practices of a state agency.

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Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and Subchapters C through H do not apply to:

(1) except as provided by Section 531.019, the granting, payment, denial, or withdrawal of financial or medical assistance or benefits under service programs that were operated by the former Texas Department of Human Services before September 1, 2003, and are operated on and after that date by the Health and Human Services Commission or a health and human services agency, as defined by Section 531.001;

(2) action by the Banking Commissioner or the Finance Commission of Texas regarding the issuance of a state bank or state trust company charter for a bank or trust company to assume the assets and liabilities of a financial institution that the commissioner considers to be in hazardous condition as defined by Section 31.002(a) or 181.002(a), Finance Code, as applicable;

(3) a hearing or interview conducted by the Board of Pardons and Paroles or the Texas Department of Criminal Justice relating to the grant, rescission, or revocation of parole or other form of administrative release; or

(4) the suspension, revocation, or termination of the certification of a breath analysis operator or technical supervisor under the rules of the Department of Public Safety.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 914, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 769, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.62, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1161 (H.B. 75), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.087, eff. September 1, 2009.

Sec. 2001.224. TEXAS EMPLOYMENT COMMISSION. Section 2001.038 and Subchapters C through H do not apply to a hearing by the Texas Employment Commission to determine whether or not a claimant is entitled to unemployment compensation, and the remainder of this chapter does not apply other than to matters of unemployment insurance maintained by the commission. Regarding unemployment insurance matters, the commission may not comply with Section 2001.004(3) or 2001.005 relating to orders and decisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.225. CERTAIN ALCOHOLIC BEVERAGE CODE APPEALS. Section 2001.176(b)(1) does not apply to an appeal under Section 32.18, Alcoholic Beverage Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.226. TEXAS DEPARTMENT OF CRIMINAL JUSTICE AND TEXAS BOARD OF CRIMINAL JUSTICE. This chapter does not apply to a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department or to an action taken under that rule or procedure.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.23(b), eff. Sept. 1, 1995.

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SUBCHAPTER Z. MISCELLANEOUS

Sec. 2001.901. APPEAL FROM DISTRICT COURT. (a) A party may appeal a final district court judgment under this chapter in the manner provided for civil actions generally.

(b) An appeal bond may not be required of a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.902. SAVING CLAUSE. This chapter does not repeal a statutory provision that confers investigatory authority on a state agency, including a provision that grants an agency the power, in connection with investigatory authority, to:

(1) take depositions;

(2) administer oaths or affirmations;

(3) examine witnesses;

(4) receive evidence;

(5) conduct hearings; or

(6) issue subpoenas or summons.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.903. RECOVERY OF ATTORNEY'S FEES AND COSTS IN CONTESTED CASES INVOLVING FRIVOLOUS REGULATORY ACTION. The administrative law judge in a contested case may award a person, in addition to all other costs allowed by law or rule, an amount not to exceed $1 million for reasonable attorney's fees and costs incurred in defending against a frivolous regulatory action during the case if there is no judicial review of the decision in the case and:

(1) the person prevails in the case; and

(2) there is a final determination that the regulatory action is frivolous.

Added by Acts 2019, 86th Leg., R.S., Ch. 504 (S.B. 27), Sec. 6, eff. September 1, 2019.