

Chapter III. Policymaking Structure

A. Please complete the following chart:

Table 7 Texas Natural Resource Conservation Commission Policymaking Body				
Member Name	Term: 6 years Appointment Dates: see below Appointed by: Governor	Qualification: geographic diversity	Address	Telephone Number Fax Number E-mail Address
Robert J. Huston	Appointed 1/7/99 Expires 8/31/03	Austin	TNRCC MC100 P.O. Box 13087 Austin, TX 78711-3087	(512) 239-5505 FAX (512) 239-5533 rhuston@tnrcc. state.tx.us
R.B. "Ralph" Marquez	Appointed 5/1/95 Expires 8/31/99	Texas City	TNRCC MC100 P.O. Box 13087 Austin, TX 78711-3087	(512) 239-5505 FAX (512) 239-5533 rmarquez@tnrcc. state.tx.us
John M. Baker, Jr.	Appointed 9/8/95 Expires 8/31/01	Temple	TNRCC MC100 P.O. Box 13087 Austin, TX 78711-3087	(512) 239-5505 FAX (512) 239-5533 jbaker@tnrcc. state.tx.us

B. How is the chair of the policymaking body appointed?

The chairmanship of the three-member Texas Natural Resource Conservation Commission is designated by the Governor.

C. Describe the primary role and responsibilities of the policymaking body.

The Texas Natural Resource Conservation Commission has three full-time, salaried commissioners who are responsible for establishing the goals and policies of the agency, rulemaking, and deciding permit and enforcement matters.

D. List any special circumstances or unique features about the policymaking body or its responsibilities.

The only special requirement for commissioners under current state authorizing law is that they be from geographically diverse areas of Texas. The current commissioners are from Texas City, Temple and Austin. The commissioners are subject to confirmation by the Texas Senate.

Commissioners are subject to conflict of interest requirements under the terms of state law. Provisions relating to ethics also restrict who can serve as a commissioner. Chapter 5 of the Water Code also prevents a person from serving as commissioner if he or she is employed by or participates in the management of an entity regulated or financed by the commission, owns 10 percent of such an entity, or uses or receives substantial goods, services or funds from the commission. Chapter 5 also precludes service by a person whose spouse falls into any of these categories. The chapter also prohibits a person from serving if the person, his or her spouse or cohabitant is an officer, employee, paid consultant of or lobbyist for a commission-regulated entity or industry trade association.

Authorization of the National Pollutant Discharge Elimination System to the TNRCC by the U.S. Environmental Protection Agency also carries some additional requirements for commissioners under the authorization requirements. Chapter 5 of the Water Code references federal NPDES service limitations. These provisions disqualify a person from serving or continuing to serve if the person received significant income from NPDES permit holders or applicant during the two calendar years preceding appointment.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 1998? in FY 1999?

The TNRCC commissioners meet in two types of public forums on a regular basis. The first of these forums is the “agenda meeting” in which the commissioners meet generally every other week in an open meeting to formally consider and act on matters within the regulatory jurisdiction of the commission, e.g. contested permit and enforcement matters and rule packages. There were 27 agenda meetings held in FY1998 and 20 held as of May in FY1999.

The second type of meeting forum is the commissioner’s work session. Work sessions are informal meetings of the agency leadership where staff can brief them on potential rules, national issues and items of interest to the agency. Management can also provide guidance to staff regarding policy direction and priorities. Like the agenda meetings, work sessions involve a quorum of commissioners and, therefore, are subject to the Texas Open Meetings Act. Unlike the agenda meetings, no public testimony is taken unless invited by the commissioners for a specific matter. The frequency of work sessions varies generally from every two weeks to once a month, depending on the commissioners’ workloads and schedules. There were 24 work sessions held in FY1998 and 12 held as of May in FY1999. The commissioners also met on five additional occasions in executive sessions in FY1999 to discuss employee selection.

F. What type of training do the agency’s policymaking body members receive?

The Governor’s office provides training for new appointees and the TNRCC provides orientation to new commissioners. The commissioners may also access specialized training on TNRCC’s policies and procedures, legal and regulatory responsibilities through the TNRCC’s own Training Academy and through the Governor’s Center for Management Development, as well as other state government training programs. The commissioners are also scheduling ethics training with the State Ethics Commission.

G. Does the agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, please describe these policies.

The commissioners’ roles and responsibilities are assigned by law. The commissioners hire the agency executive director and deputy executive director. The executive director’s role is defined by job description, as well as by law.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart.

The commission has general authority to create advisory committees under the Texas Water Code, Chapter 5, Subchapter D, Section 5.107. Advisory committees to the TNRCC are either created by a specific law, or by commission resolution. The commission also frequently uses ad hoc workgroups for specific policy issues. The commission has also promulgated rules located at Title 30 Texas Administrative Code Chapter 5 governing procedures applicable to advisory committees. The purpose of advisory committees is to provide the commission the benefit of the members’ collective business, environmental, and technical expertise with respect to matters within the commission’s jurisdiction. Their sole duty is to advise the commission, and they have no executive or administrative powers or duties with respect to operation of the commission. Advisory committee members are not salaried employees and are not reimbursed for expenses, unless the legislature or the commission expressly authorizes such reimbursement by resolution. A list of advisory committees is included in the following table.

<p align="center">Table 8 The Texas Natural Resource Conservation Commission Subcommittees and Advisory Committees</p>			
Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
ADVISORY COMMITTEES TO THE COMMISSION			
Agriculture Advisory Committee	24 members are appointed by the commission. Representatives of the agricultural business and environmental communities comprise the committee.	The Committee was established to provide information about environmental protection issues that impact the agricultural industry and to advise the commission on agricultural rules and policies.	General commission authority to create advisory groups under the Texas Water Code, Section 5, 107 Subchapter D.
Clean Air Responsibility Enterprise Committee (No longer active.)	The CARE committee was created by commission resolution on Sept. 2, 1997. All 11 members were appointed by the commission.	The Committee was principally charged with providing recommendations to the commission regarding a voluntary emissions reduction plan for the permitting of existing significant sources of air contaminants. The committee made its final recommendations to the commission in January of 1998 and is no longer active.	General commission authority to create advisory groups under the Texas Water Code, Section 5, 107 Subchapter D.

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
ADVISORY COMMITTEES TO THE COMMISSION			
Galveston Bay Council	41 members, appointed by the commission, represent business and environmental communities, state and federal agencies, concerned citizens, and local and federal government.	The Council was established to provide an ongoing forum for technical and stakeholders review and involvement in implementation of the Galveston Bay Plan, an estuary conservation and management plan; to contribute to assessments of Plan effectiveness and participate in periodic redirection of the Plan initiatives; and advise the TNRCC during consistency reviews of eligible federal projects.	General commission authority to create advisory groups under the Texas Water Code, Section 5, 107 Subchapter D.
Irrigators Advisory Council	9 members appointed by the commission. 6 members must be licensed irrigators. 3 members must be representatives of the public. The members of the council serve six-year terms, with the terms of two members expiring February 1 of each odd-numbered year.	Duties include advising the TNRCC regarding landscape irrigation issues, including examination development and continuing education.	Enacted by the 72 nd legislature as codified in the Texas Water Code, Section 34.003.
Municipal Solid Waste Management & Resource Recovery Advisory Council	18 members representing city and county solid waste agencies, commercial solid waste operators, solid waste districts/authorities, environmental groups, city and county officials, tire processors, financial community and the general public. Members are appointed in accordance with the authorizing statute and the agency's rules regarding advisory committees (30 TAC Chapter 5).	Advise TNRCC regarding municipal solid waste issues.	Mandated by the 69th Legislative Session in 1983 in accordance with the Texas Health and Safety Code, Section 363.046

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
ADVISORY COMMITTEES TO THE COMMISSION			
Small Business Compliance Advisory Panel	7 members (2 members are appointed by the Governor, 2 members appointed by the Lt. Governor, 2 members appointed by the Speaker of the House, and one agency member appointed by the Chairman of the TNRCC.	Review and give advisory opinions on the effectiveness of the Texas Small Business Assistance Program; Make periodic progress reports to the U.S. EPA's Small Business Ombudsman concerning compliance of the Texas Small Business Assistance Program with other related federal regulations; and ensure that information affecting small businesses is written in plain language.	The 1990 Federal Clean Air Act Amendments (P.L. 101-549.) Texas Health & Safety Code Section 382.0365(c)
Used Oil Grant Program Advisory Committee	7 members appointed by the commission represent oil manufacturers, operators of used oil collection centers, and local governments.	Recommend criteria for awarding used oil grants; establish guidelines for allowable administrative expenses; and recommend grant recipients to the commission.	The Texas Health and Safety Code, Section 371.023.(c)
Waste Reduction Advisory Committee Subcommittees: - Clean Industries 2000 Subcommittee (16 members) - Clean Cities Subcommittee (7 members) - Clean Texas Star Subcommittee (17 members)	13 members (9 official, plus 4 <i>ex officio</i> members). Balanced representation of environmental and public interest groups and the regulated community. The four <i>ex officio</i> positions were established by the commission to provide additional participation from local government, state legislators and a small business.	Advise TNRCC about pollution prevention strategies and waste reduction programs including public awareness programs about hazardous waste; technical assistance provisions to local governments; and, other possible programs to more effectively implement the state's hierarchy of preferred waste management technologies as set forth in Section 361.023(a).	Texas Health & Safety Code, Chapter 361.0215.

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
ADVISORY COMMITTEES TO THE COMMISSION			
Water Utility Operator Certification Advisory Committee	13 members. By agency policy, members should hold operator certificates of competency and be knowledgeable about water or wastewater utility operations.	Represent the regulated community and advise the commission on implementation of wastewater and water utility certification programs.	General commission authority to create advisory groups under the Texas Water Code, Section 5, 107 Subchapter D
Weather Modification Advisory Committee	5 members are appointed by the commission. Members include an atmospheric scientist, an attorney, a businessman, a rancher/farmer, and an engineer.	This Committee was established to advise the commission on weather modification and environmental regulation.	Texas Water Code, Section 18.0015

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
ADVISORY COMMITTEES TO THE TNRCC AND OTHER STATE AGENCIES			
Texas Radiation Advisory Board	18 members appointed by the Governor representing each of the following: industry representative trained in nuclear physics, science, or nuclear engineering; labor; agriculture; insurance industry; an individual engaged in the use and application of nuclear physics in medicine and is certified by the American Board of Radiology or licensed by the Texas Board of Licensure for Professional Medical Physicists; hospital administrator; individual licensed by the Texas State Board of Medical Examiners who specializes in nuclear medicine; individual licensed by the Texas State Board of Medical Examiners who specializes in pathology; individual licensed by the Texas State Board of Medical Examiners who specializes in radiology; representatives from the nuclear utility industry, radioactive waste industry, uranium mining and petroleum industries; a health physicist certified by the American Board of Health Physics; an individual licensed by the State Board of Dental Examiners; and, three representatives of the public.	Advise the TNRCC, the Railroad commission of Texas, and other state agencies; on all radiation issues.	Texas Health & Safety Code, Section 401.015
Groundwater Protection Committee	9 members are designated by statute as codified in the Texas Water Code, Section 26.403.	The committee was established to bridge the gap between state groundwater programs and optimize groundwater quality protection by improving coordination among agencies for groundwater protection. activities.	Texas Water Code, Sections 26.401-26.407

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
ADVISORY COMMITTEES CREATED BY THE EXECUTIVE DIRECTOR			
The Rio Grande Watermaster Advisory Committee	There are 15 members (legislation requires a minimum of 9 and a maximum of 15), who are holders of water rights or representatives of holders of water rights in the water division of a watermaster.	Advise TNRCC Executive Director regarding water rights issues, including review and comment of annual budget of watermaster operations.	Texas Water Code Section 11.3261
The South Texas Watermaster Advisory Committee	There are 15 members (legislation requires a minimum of 9 and a maximum of 15), who are holders of water rights or representatives of holders of water rights in the water division of a watermaster.	Advise TNRCC Executive Director regarding water rights issues, including review and comment of annual budget of watermaster operations.	Texas Water Code Section 11.3261

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
AD HOC TNRCC ADVISORY COMMITTEES			
Clean Rivers Program Steering Committee	For each river authority steering committee members include water/wastewater permit holders paying fees, private citizens, the State Soil and Water Conservation Board, representatives from other appropriate state agencies, political subdivisions, and other persons with an interest in water quality matters of the watershed or river basin. Members are not appointed. Membership is open.	These committees were established to assist river authorities in the coordination and development of water quality assessments and reports. Provide input and comment to river authorities on water quality objectives and priorities within a river basin.	Texas Water Code, Section 26.0135

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
AD HOC TNRCC ADVISORY COMMITTEES			
Clean Rivers Stakeholders Workgroup	66 members representing environmental groups, industry, fee payers, cities, river authorities, and other interest groups. Open to anyone.	Provide input and comment to the TNRCC and to river authorities on the Clean Rivers Program and nonpoint source issues.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Drinking Water Advisory Work Group	46 members include representatives of the business and environmental communities, state and federal agencies, concerned citizens, and local government. Members are not appointed; this ad hoc group is a voluntary group and is open to the public, therefore anyone who wishes to join may attend the meetings.	The work group was established to address issues related to drinking water, with emphasis on compliance with state and federal regulations and improving customer service to the public.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Photochemical Modeling Technical Oversight Committee for Houston-Galveston and Beaumont-Port Arthur	32 members chosen based upon technical expertise in photochemical modeling details.	Provides review and oversight on TNRCC photochemical modeling efforts for Houston-Galveston and Beaumont-Port Arthur State Implementation Plans (SIPs). This group is primarily technical in nature and is concerned with details of the modeling process itself.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Small Business Advisory Committees	SBAC members include small business leaders, environmental professionals, and representatives of trade associations and government organizations. Committees currently operate in Beaumont/Port Arthur, Dallas, Fort Worth, Houston, and San Antonio.	The regional committees give small businesses a voice in the regulatory process and help promote environmental quality in tandem with economic growth. Information from these regional committees is passed on to members of the Compliance Advisory Panel to ensure that the needs of all Texas businesses are heard.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
AD HOC TNRCC ADVISORY COMMITTEES			
Statewide Rule Review Committee	Approximately 50 members, including members of the SBACs and other small business groups throughout the state	Review and comment on proposed rules that affect small businesses. Comments from this committee are often incorporated into the final rules.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Statewide Plain Language Committee	The 44 -person committee includes regional Small Business Advisory Committee members, small business owners, city officials, and trade association representatives.	Reviews fact sheets, rules, brochures, and other agency publications to make sure they are easy to read and understand.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Surface Water Quality Standards Rulemaking Work Group	Representatives of major industries; river authorities; municipalities and municipal organizations; environmental groups; and, other state agencies (e.g., TPWD). Total mailing list of 50 persons. Members are not appointed; they are requested to participate on a voluntary basis. 25 members regularly attend.	Assists TNRCC in developing revisions to water quality standards required on a triennial basis by the federal Clean Water Act.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Texas Environmental Excellence Award Blue-Ribbon Selection Committee	11 members representing state and local government, industry, public, academia, and environment groups. Membership is approved by the commission.	Provides oversight capacity for Texas Environmental Excellence Awards.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.

Name of Subcommittee or Advisory Committee	Size/Composition/How members are appointed	Purpose/Duties	Legal Basis for Committee
AD HOC TNRCC ADVISORY COMMITTEES			
Texas Consolidated Uniform Report for the Environment (CURE) Stakeholders [This committee is no longer active having fulfilled its commitment.]	12 members representing computer and electronics sector, environmental and civic groups, and local government interests.	Associated with the U.S. EPA's Common Sense Initiative. Purpose is to develop a consolidated environmental reporting format for the computer and electronics sector.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Texas EnviroMentor Advisory Group	11 members serve voluntarily with staff support. Meet twice yearly. Comprised of business and industry expertise, environmental consultants and small business owners.	Provides a mentoring service to small businesses regarding the EnviroMentor Program.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Texas Recycles Day 1999 Executive Committee	16 members. New members may be appointed for the Texas Recycles Day 2000 Executive Committee. Members represent state and local government, industry, civic and environmental groups. Includes representation from the Legislature.	Serve as a statewide steering committee to the Texas Recycles Day program.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.
Water Quality Work Group	Initiated in May 1999, 51 persons are invited, though membership is open to anyone. Membership is diverse including industry, environmental and civic organizations.	The work group was established to provide input on water quality issues.	General commission authority to create advisory groups under the Texas Water Code, Section 5.107 Subchapter D.

I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?

Commission members obtain input from participants in contested case hearings under the Administrative Procedures Act (APA) and TNRCC rules. Participants also provide information for water rights and rulemaking actions of the commission. The APA has an ex parte communication prohibition, limiting communications with the commissioners on contested case matters. The Texas Open Meetings Act limits commissioners' communication with each other outside of agendas and work sessions. Communications between commissioners and between commissioners and staff are reviewed by the TNRCC General Counsel to ensure compliance with these rules. The commissioners at their discretion may receive comment at agenda. In addition, the commission is required to provide a request for comment on enforcement matters. Comments received are summarized and provided to the commissioners for agenda.

The commissioners also take input from the public in more informal venues, including a series of community forums and town hall meetings held across the state in 1998. Public comments from these meetings were incorporated into the agency's strategic plan. For the first time in 1998, the plan identified issues on a regional basis, including comments offered in regional forums.

In matters other than contested case matters, such as rulemaking, the commission solicits formal input, both orally and in writing, from interested citizens throughout the state. The commission considers these comments and frequently responds to the those comments either by amending rules or discussing the rational basis for rules.

Additionally, various agency personnel, up to and including the commissioners make themselves available for individual meetings with stakeholders and the public to discuss agency rules, general policy and practice.

TNRCC staff receive public comments in community meetings and hearings across Texas, and enter public comments into summaries of those events. Public comments are used in program planning by agency staff and commissioners.

Individual commissioners attend public meetings in communities across Texas as part of their regular duties, and gather public comments and take questions from the audience, in an effort to supplement other information received from more formal programmatic channels.

The commissioners also have access to transcripts and summaries of advisory group meetings, task forces, seminars and workshops that gather public comments.