

## Analysis of Stakeholder Input on Sunset Self-Evaluation

Issues <sup>1</sup>	Stakeholder Name
<u>Rulemaking</u>	
<ul style="list-style-type: none"> <li>• Stakeholder involvement in rule- and policy-making process</li> </ul>	Texas Water Utilities Association
<ul style="list-style-type: none"> <li>• Work more formally with EPA to make sure national rules make sense for Texas—work with local areas to determine when a community has reached a consensus</li> <li>• Rules should not cause the expenditure of resources for regulatory “paper changes” that have no improvement in environmental performance</li> <li>• Regulatory interpretations should only come from Austin, and after dialogue and input from the regulated community</li> <li>• Continue to support the use of regulatory innovations such as performance-based permits</li> </ul>	Texas Chemical Council
<ul style="list-style-type: none"> <li>• Provide better notice and opportunity for early dialogue on new rule interpretations or policy changes</li> <li>• Ensure that rulemaking activities are value-added—consider cost effectiveness and efficiency</li> <li>• Ensure the regulations are performance-based—promoting flexibility in achieving goals, objectives, and requirements</li> </ul>	American Electronics Association / Texas Industries Project
<ul style="list-style-type: none"> <li>• Because rule successes have occurred when the regulated community provides early and adequate comment prior to the proposal of a rule and failures result when the agency rushes through the policy development process without adequate regulated community input or time, the agency should allow adequate time for exploration of adverse effects and unintended consequences on the stakeholder community</li> </ul>	Texas Association of Business and Chambers of Commerce
<ul style="list-style-type: none"> <li>• TNRCC should lead efforts with TPWD and TWDB to embrace the regional plans from SBI.</li> </ul>	Texas Water Conservation Association
<ul style="list-style-type: none"> <li>• Rule development should involve the regulated community early and often.</li> <li>• Allow adequate time for thorough review, comment and resolution of concerns.</li> </ul>	Texas Oil and Gas Association

<ul style="list-style-type: none"> <li>Eliminate the use of industry-dominated informal working groups and advisory groups</li> </ul>	Sierra Club; Consumers Union; Texas Committee on Natural Resources; National Wildlife Federation; Texas Center for Policy Studies; Clean Water Action; Public Citizen; Henry, Lowerre, Johnson & Frederick; Blackburn and Carter (herein Environmental/Public Interest Groups) <sup>2</sup>
<ul style="list-style-type: none"> <li>Development of an effective and timely strategy to bring areas into compliance with federal NAAQS should be mandated</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<u>Governance/Structure</u>	
<ul style="list-style-type: none"> <li>Re-evaluate the structure and organization of the commission—should the three full-time member commission structure be changed?</li> </ul>	Consulting Engineers Council <sup>2</sup> , American Electronics Association
<ul style="list-style-type: none"> <li>Effectiveness of consolidation should be examined, along with management problems accruing from increased size and reduced accountability</li> <li>Question of separating air and water (and presumably waste) should be reviewed</li> </ul>	Consulting Engineers Council <sup>2</sup>
<ul style="list-style-type: none"> <li>Better representation of the public interest on the commission through appropriate statutory changes</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<ul style="list-style-type: none"> <li>Establish an Office of Public Interest Council independent of TNRCC</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<u>Planning, Monitoring and Assessment</u>	
<ul style="list-style-type: none"> <li>TNRCC has embarked on TMDL program without adequate guidance from EPA; data is suspect; and there is no clear process for removing a watercourse once it is listed.</li> <li>TNRCC should review criteria for all stream segment standards statewide.</li> <li>Consolidate water quality programs such as Clean Rivers, TMDL's, Source Water Protection so that redundant committees, public meetings and web pages are not created.</li> </ul>	Texas Water Conservation Association
<u>Enforcement</u>	

<ul style="list-style-type: none"> <li>• Adequate enforcement</li> <li>• Facility inspections using adequate, properly trained field personnel</li> </ul>	Texas Water Utilities Association
<ul style="list-style-type: none"> <li>• Place more emphasis on compliance assistance and related programs</li> <li>• Consider expanding the environmental audit and immunity statutory provisions to include environmental compliance management systems</li> <li>• Direct enforcement activities to those businesses that are not currently aggressively pursuing compliance management and periodic auditing</li> <li>• Handle trivial instances of noncompliance through compliance assistance rather than through traditional enforcement methods</li> <li>• Develop additional regulatory incentives for those businesses that produce compliance excellence</li> </ul>	Texas Chemical Council
<ul style="list-style-type: none"> <li>• Maintain and increase TNRCC's authority to provide and implement flexible and sensible voluntary compliance programs—maintain state primacy on enforcement matters</li> </ul>	American Electronics Association
<ul style="list-style-type: none"> <li>• Revise the agency's penalty policy so that it is less punitive, with more resolution of enforcement issues at the local level and more focus on long-term compliance</li> </ul>	Texas Association of Business and Chambers of Commerce
<ul style="list-style-type: none"> <li>• The penalty policy should be revised so that it is less punitive, with more resolution of enforcement issues at the local level and reduced penalties for small business.</li> <li>• TNRCC should work with Comptroller so that when small businesses in certain SIC codes apply for tax i.d. numbers, the Comptroller will notify them of the possible need to contact TNRCC regarding compliance with environmental regulation.</li> <li>• TNRCC should conduct an analysis of how many actual violations are identified as a result of anonymous complaints to determine whether followup is justified.</li> </ul>	Texas Compliance Advisory Panel
<ul style="list-style-type: none"> <li>• TNRCC should comprehensively analyze water rights compliance and enforcement activities to identify strategies and organizational structure for effective use of resources for surface water.</li> </ul>	Texas Water Conservation Association
<ul style="list-style-type: none"> <li>• Full recovery of economic benefit of noncompliance</li> <li>• Use of credible citizen-gathered evidence to initiate enforcement</li> <li>• Increasing agency resources for quicker response and increased inspections</li> <li>• Better public access to compliance history information</li> <li>• Permit denials based on poor compliance</li> <li>• Assistance to local governments willing to carry out enforcement responsibilities</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<ul style="list-style-type: none"> <li>• Ensure appropriate public participation in enforcement proceedings</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<u>Occupational Certification</u>	

<ul style="list-style-type: none"> <li>Stakeholder involvement in the water and wastewater occupation certification programs</li> <li>Examination validation for certification examinations</li> <li>Customer service relating to examination process</li> </ul>	Texas Water Utilities Association
<ul style="list-style-type: none"> <li>TNRCC should actively promote the certification of labs throughout the state to eliminate long delays in processing of samples and loss of samples due to long travel times.</li> </ul>	Texas Water Conservation Association
<u>Permitting</u>	
<ul style="list-style-type: none"> <li>New/expanding businesses should be evaluated on an individual basis—permits should be streamlined for “green businesses”, and those with a good compliance and regulatory history</li> </ul>	Margaret A. Trouart
<ul style="list-style-type: none"> <li>Review permitting actions to determine if the appropriate level of public participation is provided for the type of action being taken</li> <li>Improve permit processing times</li> <li>PE seals should only be a requirement on permits when there is a value for such a seal</li> <li>The overall analytical burden for a permit application should be reconsidered to eliminate that analysis that is required only because of past practice</li> <li>Statutory requirements for public notice, compliance history considerations, etc. should be justified and standardized</li> <li>Practice certification lieu of the environmental permitting process</li> </ul>	Texas Chemical Council
<ul style="list-style-type: none"> <li>Include storm-water discharges in the delegation of NPDES to Texas</li> <li>Exclude insignificant emissions sources from the air quality permit review process</li> <li>Expedite the review/decision process on contested case hearing requests to minimize delays in the permitting process</li> <li>Streamline the permit process, especially for multi-media projects</li> <li>Re-evaluate the need to obtain an air permit prior to the initiation of construction</li> </ul>	American Electronics Association / Texas Industries Project
<ul style="list-style-type: none"> <li>TNRCC's 401 certification process should not duplicate federal 404 process.</li> <li>Streamline wastewater permitting.</li> <li>Make wastewater permit application forms available on the web in electronic digital format.</li> <li>Re-examine CAFO program to ensure protection of water quality.</li> <li>Private water systems should generally be subject to the same requirements as similarly sized public water systems.</li> <li>TNRCC should encourage pre-application meetings to assist in identifying and addressing issues.</li> </ul>	Texas Water Conservation Association
<ul style="list-style-type: none"> <li>Encourage compliance through permitting (i.e., permit denials based on poor compliance)</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>

<ul style="list-style-type: none"> <li>• Consider environmental justice and cumulative impact issues in permitting</li> <li>• Eliminate abuse of “timely renewal” provisions, particularly in water rights permitting</li> <li>• Early, timely and clear public notice of proposed permits and amendments</li> <li>• More objective and rational criteria for the use of standardized authorizations (exemptions, registrations, etc.)</li> <li>• Use processes that ensure the Commission has all relevant facts for decisions are made</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<ul style="list-style-type: none"> <li>• Close the “grandfathered” loophole for pre-1971 facilities</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<u>Funding</u>	
<ul style="list-style-type: none"> <li>• TNRCC operates from too many funding sources, leading to inefficiency and confusion</li> <li>• Revenue from fees should remain programmatically aligned</li> <li>• The water program is under-funded in relationship to its mission–single most critical issue facing the TNRCC</li> <li>• Information management has been neglected due to conflicting priorities</li> <li>• The concept of reliance on user fees as much of the primary basis for the states portion of the agency funding is dysfunctional</li> </ul>	Texas Chemical Council
<ul style="list-style-type: none"> <li>• Re-evaluate existing fee and funding structure</li> </ul>	American Electronics Association/ Texas Industries Project
<ul style="list-style-type: none"> <li>• Fee programs are tied to the programs for which they were levied–results in inequities, insufficient funding by the Legislature for certain necessary activities, and “raiding” program funds for purposes not intended by the original levy</li> <li>• The regulated community contributes over 70% of revenues for TNRCC fee programs–they should not have the responsibility to pay for environmental programs for which they receive no services</li> <li>• Insufficient funds are raised from the general public for the environmental services they receive–funding mechanisms should be changed to ensure funding for those portions of the agency’s solid waste and water/wastewater for which the general public receives a benefit or contributes to the pollution</li> </ul>	Texas Association of Business and Chambers of Commerce
<ul style="list-style-type: none"> <li>• Revenue base for water/wastewater programs should be broadened.</li> <li>• Air program is over funded.</li> <li>• Public should pay a larger share based on the contribution of sources such as automobiles, lawn equipment and recreational water vehicles.</li> </ul>	Texas Oil and Gas Association
<ul style="list-style-type: none"> <li>• Fee programs should be evaluated as a whole to ensure equity among all fee-payers.</li> </ul>	Texas Water Conservation Association

<ul style="list-style-type: none"> <li>• Address underfunding of the water quality program</li> <li>• Ensure all polluters pay their fair share</li> <li>• Eliminating inequities and perverse incentives in air, water and waste program fee structures</li> <li>• Reducing or eliminating non-essential functions that do not provide environmental or health benefits</li> <li>• Increasing agency resources for quicker response and increased inspections</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<u>Information Management</u>	
<ul style="list-style-type: none"> <li>• Expand electronic reporting</li> <li>• Make data management systems consistent so that the same data is not required to be submitted multiple times</li> <li>• Allow the submitter of data to correct information in the system</li> <li>• Focus on requesting data that is needed to make a decision</li> <li>• Examine the frequency for which certain information is required</li> </ul>	Texas Chemical Council
<ul style="list-style-type: none"> <li>• Ensure an integrated compliance data management system which ensures accurate, timely posting of data</li> </ul>	American Electronics Association / Texas Industries Project
<ul style="list-style-type: none"> <li>• Improve the air emission inventory process and reduce posting cycle time to assure earlier public access to accurate information</li> </ul>	American Electronics Association / Texas Industries Project
<ul style="list-style-type: none"> <li>• TNRCC should improve access to agency-wide databases and improve tracking systems to improve consistency and responsiveness.</li> <li>• TNRCC should use electronic reporting capabilities to streamline the reporting requirements.</li> </ul>	Texas Compliance Advisory Panel
<ul style="list-style-type: none"> <li>• Increase electronic access to relevant information</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<u>Public participation/ Information</u>	
<ul style="list-style-type: none"> <li>• The TNRCC is to be commended for its use of the Internet for public information and communication–this use should be expanded</li> <li>• Continue and expand regional meetings, regulatory forums, and other forms of communication with the regulated community</li> </ul>	Texas Chemical Council

<ul style="list-style-type: none"> <li>• Ensure that public comment procedures provide a meaningful and appropriate way to inform the public that have valid interests in the factual information</li> <li>• Improve the air emission inventory process and reduce posting cycle time to assure earlier public access to accurate information</li> <li>• Expedite the review/decision process on contested case hearing requests to minimize delays in the permitting process</li> <li>• Re-evaluate the TNRCC's process for protecting confidential business information as well as the need for such information</li> </ul>	<p>American Electronics Association / Texas Industries Project</p>
<ul style="list-style-type: none"> <li>• The standards TNRCC expects SOAH to apply in deciding party status should be clarified.</li> </ul>	<p>Texas Water Conservation Association</p>
<ul style="list-style-type: none"> <li>• Maintain and enhance opportunities for meaningful public participation in TNRCC decision-making, including application of tests for standing, participation in enforcement proceedings, notice of and opportunity for public participation in assessments of environmental quality, and eliminating the use of informal working groups and advisory committees dominated by regulated industry</li> </ul>	<p>Environmental/Public Interest Groups<sup>2</sup></p>
<ul style="list-style-type: none"> <li>• Improve the central records, library system and field office record systems</li> <li>• Increase electronic access to relevant information</li> <li>• Provide adequate disincentives for false claims of confidential business information</li> <li>• Provide better notice and availability of staff "memos" or "white papers" that set out binding regulatory interpretations and policy</li> </ul>	<p>Environmental/Public Interest Groups<sup>2</sup></p>
<p><u>Administration/Personnel</u></p>	
<ul style="list-style-type: none"> <li>• Some contract requirements such as indemnification may preclude the state from attracting a broad range of qualified contractors</li> </ul>	<p>Consulting Engineers Council<sup>2</sup></p>
<ul style="list-style-type: none"> <li>• It takes too long for TNRCC to reimburse contractors. TNRCC should establish a performance standard for payment and track compliance.</li> </ul>	<p>Texas Water Conservation Association</p>
<ul style="list-style-type: none"> <li>• TNRCC should devote more resources to training field staff to allow them to give consistent answers on compliance issues.</li> </ul>	<p>Texas Compliance Advisory Panel</p>
<ul style="list-style-type: none"> <li>• Devise methods of retaining qualified technical personnel, particularly in water quality permitting and analysis.</li> <li>• Ensure that agency staff and new hires are well trained and competent</li> </ul>	<p>American Electronics Association</p>
<ul style="list-style-type: none"> <li>• Concern that engineering review may not be conducted by engineers in accordance with the Texas Engineering Practice Act</li> </ul>	<p>Consulting Engineers Council<sup>2</sup></p>

<u>Compliance Assistance</u>	
<ul style="list-style-type: none"> <li>Continue to support voluntary programs such as “Clean Industries”, which has an impressive track record</li> <li>Place more emphasis on compliance assistance and related programs</li> </ul>	Texas Chemical Council
<ul style="list-style-type: none"> <li>The TNRCC should review all program areas to ensure that they are not diverting money and human resources away from mandated programs in order to provide for programs not directly required by state or federal law. (Ed. Note: The clearest examples of non-mandated activities are local government assistance and non-air related small business assistance activities.)</li> </ul>	Texas Oil and Gas Association
<ul style="list-style-type: none"> <li>Additional staff and finances are necessary to help the more than 116,000 small businesses that may be affected by environmental regulations</li> <li>Develop a <i>de minimis</i> policy for all media that sets a reasonable lower threshold to relieve insignificant emitters from regulatory requirements</li> <li>Extend the new less costly form of newspaper public notice requirement from the air permit program to small businesses in wastewater and solid waste</li> <li>Include a grace period or amnesty period for enrollment of small businesses in the grandfathered sources program</li> </ul>	Texas Association of Business and Chambers of Commerce / Texas Compliance Advisory Panel
<ul style="list-style-type: none"> <li>TNRCC should develop an educational outreach program for elected officials.</li> </ul>	Alamo Area Council of Governments
<ul style="list-style-type: none"> <li>Simplify the waste classification and adopt a system based on the characteristics of the waste rather than the generator.</li> <li>TNRCC should work with POTW's, commercial compost operations and small business to ensure access for small businesses to sludge treatment facilities.</li> <li>The requirement of submitting an annual source reduction and waste minimization plan should be eliminated for small businesses.</li> </ul>	Texas Compliance Advisory Panel
<u>Extraneous Activities</u>	
<ul style="list-style-type: none"> <li>The TNRCC should review all program areas to ensure that they are not diverting money and human resources away from mandated programs in order to provide for programs not directly required by state or federal law.</li> </ul>	Texas Oil and Gas Association
<ul style="list-style-type: none"> <li>Reducing or eliminating non-essential functions that do not provide environmental or health benefits</li> </ul>	Environmental/Public Interest Groups <sup>2</sup>
<ul style="list-style-type: none"> <li>TNRCC should review the role of Toxicology and Risk Assessment to determine whether its activities are beyond TNRCC's focus.</li> </ul>	Texas Industries Project



1. This document contains a brief summary of the positions given in commentators' letters received prior to development of the Self-Evaluation, and is designed to give the reader a condensed version of their comments.
2. These comments were received after the agency had formulated the Self-Evaluation Report. However, they are included for future reference and for completeness.