

Texas Commission on Environmental Quality



DECISION OF THE COMMISSION REGARDING THE PETITION FOR RULEMAKING FILED BY THE UNIVERSITY OF TEXAS REGULATORY OVERSIGHT GROUP

Docket No. 2013-1045-RUL

On June 18, 2013, the Texas Commission on Environmental Quality (Commission) considered the petition for rulemaking filed by the University of Texas Regulatory Oversight Group (petitioner). The petition, filed on May 22, 2013, requests that the agency initiate rulemaking to requested that the commission amend 30 TAC Chapter 36 to redefine "drought" and "emergency shortage of water;" require that the drought be in effect for no more than 30 days at the time of issuance of an executive director (ED) order unless the commissioners have made a finding that the conditions warrant empowering the ED to issue an order and limiting this finding to six months unless renewed by the commissioners; require 30 days notice and allow requests for a hearing before the ED issues an order; require that junior water rights holders who are not suspended must provide water use and alternative information and must go to more restrictive levels in their drought contingency and water conservation plans when an ED order is issued.

IT IS THE DECISION OF THE COMMISSION pursuant to Administrative Procedure Act, Texas Government Code, § 2001.021 and Texas Water Code, § 5.102 to deny the petition. The petition is denied because: 1) the requests relating to notice and hearing, and drought, are unworkable and impractical due to the need for quick response; 2) many changes would deny the executive director and the commission needed flexibility; 3) some of the requested rule changes are already allowed under existing rules; 4) litigation is pending which may impact Chapter 36 and how Texas Water Code (TWC), §11.053 is interpreted; and 5) the rules have been used for only one senior call and should be amended, if necessary, as other senior calls are made, information is obtained, and the commission determines better ways to respond.

This Decision constitutes the decision of the Commission required by the Texas Government Code, § 2001.021(c).

Issued date: JUN 27 2013

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

A handwritten signature in black ink that reads "Bryan W. Shaw".

Bryan W. Shaw, Ph.D., Chairman