

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§50.31, 50.45, 50.131, and 50.145.

Background and Summary of the Factual Basis for the Proposed Rules

The Public Utility Commission of Texas (PUC) Sunset Legislation, House Bill (HB) 1600 and Senate Bill (SB) 567 passed by the 83rd Texas Legislature, 2013, transferred from the TCEQ to the PUC the functions relating to the economic regulation of water and wastewater utilities effective September 1, 2014.

Concurrent with this proposal, and published in this issue of the *Texas Register*, the commission is proposing revisions to 30 TAC Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions; Chapter 37, Financial Assurance; Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; Chapter 80, Contested Case Hearings; Chapter 281, Applications Processing; Chapter 290, Public Drinking Water; Chapter 291, Utility Regulations; and Chapter 293, Water Districts.

Section by Section Discussion

In addition to the proposed revisions associated with this rulemaking, the proposed rulemaking also includes various stylistic, non-substantive changes to update rule language to current *Texas Register* style and format requirements. Such changes included appropriate and consistent use of acronyms, section references, rule structure, and certain terminology.

Where paragraphs are proposed for removal, subsequent paragraphs are renumbered accordingly. These changes are non-substantive and generally not specifically discussed in this preamble.

§50.31, Purpose and Applicability

The commission proposes to amend §50.31 to remove subsection (b)(4) and (12). With the transfer of these functions to the PUC in HB 1600 and SB 567, this language is no longer needed.

§50.45, Corrections to Permits

The commission proposes to amend §50.45 to remove subsection (b)(4) and (5). With the transfer of these functions to the PUC in HB 1600 and SB 567, this language is no longer needed.

§50.131, Purpose and Applicability

The commission proposes to amend §50.131 to remove subsection (b)(4) and (12). With the transfer of these functions to the PUC in HB 1600 and SB 567, this language is no longer needed.

§50.145, Corrections to Permits

The commission proposes to amend §50.145 to remove subsection (b)(4) and (5). With the transfer of these functions to the PUC in HB 1600 and SB 567, this language is no longer

needed.

Fiscal Note: Costs to State and Local Government

Jené Bearse, Analyst in the Budget and Planning Division, determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

The rulemaking is proposed in order to amend rules for a program transferred to the PUC through the passage of HB 1600 and SB 567. Effective September 1, 2014, HB 1600 and SB 567 transferred the responsibility for regulating water and wastewater rates, services, and certificates of convenience and necessity from the commission to the PUC. The commission therefore proposes to amend §§50.31, 50.45, 50.131, and 50.145.

Staff, fees, and functions relating to the economic regulation of water and wastewater utilities were transferred from the TCEQ to the PUC in Fiscal Year 2015. The agency transferred \$1,429,818 out of Water Resource Management Account Number 153 funds and 20.0 full-time employee (FTEs) to the PUC. In addition, there was also a transfer of \$184,000 to the PUC to cover the cost of the contract with the State Office of Administrative Hearings for water and wastewater utility contested case hearings. The Office of Public Utility Counsel was appropriated \$499,680 in Water Resource Management Account Number 153 funds and 5.0 FTEs in Fiscal Year 2015 to represent water and wastewater utility customers as

provided by the provisions of HB 1600 and SB 567.

For Fiscal Year 2016, the legislature increased the appropriation to the PUC and the Office of Public Utility Counsel; the total cost to the Water Resource Management Account Number 153 for Fiscal Years 2016 and 2017 was \$3,567,824 and \$3,567,824, respectively. The total cost to the Water Resource Management Account Number 153 for Fiscal Year 2018 was \$3,470,453.

Since the transfer of the administration and regulation of water and wastewater rates, services, and certificates of convenience and necessity has already taken place, there are no fiscal implications anticipated for the agency, PUC, or for other units of state or local government as a result of the implementation or administration of the proposed rules.

Public Benefits and Costs

Ms. Bearse also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be compliance with state law and clear rules for the administration and regulation of water and wastewater rates, services, and certificates of convenience and necessity.

The proposed rulemaking is not expected to result in fiscal implications for businesses or individuals. The proposed rulemaking amends current rules to reflect the transfer of the regulation of water and wastewater rates, services, and certificates of convenience and

necessity to the PUC.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Rural Community Impact Statement

The commission reviewed this proposed rulemaking and determined that the proposed rules do not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect. The proposed rulemaking amends current rules to reflect the transfer of the regulation of water and wastewater rates, services, and certificates of convenience and necessity to the PUC.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require an increase or decrease in future legislative appropriations to the agency; require the creation of new employee positions nor eliminate current employee positions; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create, expand, or limit an existing regulation, but it does amend TCEQ's rules for a program transferred to the PUC. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225. Texas Government Code, §2001.0225 applies to a "Major environmental rule" which is defined in Texas Government Code,

§2001.0225(g)(3) as a rule with a specific intent "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."

First, the proposed rulemaking does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The PUC Sunset Legislation, HB 1600 and SB 567 transferred from the TCEQ to the PUC the functions relating to the economic regulation of water and wastewater utilities. The specific intent of the proposed rulemaking is to amend Chapter 50 relating to the economic regulation of water and wastewater utilities. Therefore, the intent is not to protect the environment or reduce risks to human health from environmental exposure, but instead to amend rules relating to economic regulation of water and wastewater utilities as those functions were transferred to the PUC.

Second, the proposed rulemaking does not meet the statutory definition of a "Major environmental rule" because the proposed rules would not 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. It is not anticipated that the cost of complying with the proposed rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the proposed amendments will not adversely affect in a material way the economy, a sector of the economy,

competition, or jobs.

Finally, the proposed rulemaking does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule, 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. This proposed rulemaking does not meet any of the four preceding applicability requirements because this rulemaking: 1) does not exceed any standard set by federal law for the economic regulation of water or wastewater utilities; 2) does not exceed any express requirements of Texas Water Code, Chapter 11, 12, or 13, which relate to the economic regulation of water and wastewater utilities; 3) does not 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; and 4) is not proposed solely under the general powers of the agency.

Since this proposed rulemaking does not meet the statutory definition of a "Major environmental rule" nor does it meet any of the four applicability requirements for a "Major environmental rule" this rulemaking is not subject to Texas Government Code, §2001.0225.

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated this proposed rulemaking and performed a preliminary assessment of whether these proposed rules constitute a taking under Texas Government Code, Chapter 2007.

The commission proposes this rulemaking for the purpose of amending TCEQ rules in Chapter 50 relating to the economic regulation of water and wastewater utilities as those functions have transferred from the TCEQ to the PUC.

The commission's analysis indicates that Texas Government Code, Chapter 2007, does not apply to these proposed rules based upon an exception to applicability in Texas Government Code, §2007.003(b)(5). The proposed rulemaking is a discontinuance of the economic regulation of water and wastewater utilities within the TCEQ, which provides a unilateral expectation that does not rise to the level of a recognized interest in private real property. Because the proposed rulemaking falls within an exception under Texas Government Code, §2007.003(b)(5), Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking.

Further, the commission determined that promulgation of these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rulemaking because the proposed rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there would be no reduction in property value as a result of these rules. This rulemaking is required due to the transfer of functions relating to the economic regulation of water and wastewater utilities from the TCEQ to the PUC pursuant to HB 1600 and SB 567. The specific intent of the proposed rulemaking is to amend TCEQ rules relating to the economic regulation of water and wastewater utilities. Therefore, the proposed rules would not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on August 7, 2018, at 2:00 p.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at:

<https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2013-057-291-OW. The comment period closes on August 13, 2018. Copies of the proposed rulemaking can be obtained from the commission's website at

https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Brian Dickey, TCEQ Water Supply Division, Plan and Technical Review Section at

(512) 239-0963.

SUBCHAPTER C: ACTION BY EXECUTIVE DIRECTOR

§50.31, §50.45

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; and TWC, §5.103, concerning Rules, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the TWC and other laws of this state.

The proposed amendments implement House Bill 1600 and Senate Bill 567 passed by the 83rd Texas Legislature, 2013.

§50.31. Purpose and Applicability.

(a) The purpose of this subchapter is to delegate authority to the executive director and to specify applications on which the executive director may take action on behalf of the commission.

(b) This subchapter applies to any application that is declared administratively complete before September 1, 1999. Any application that is declared administratively complete on or after September 1, 1999 is subject to Subchapter G of this chapter (relating

to Action by the Executive Director). Except as provided by subsection (c) of this section, this subchapter applies to:

(1) air quality permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);

(2) appointments to the board of directors of districts created by special law;

(3) certificates of adjudication;

[(4) certificates of convenience and necessity;]

(4) [(5)] district matters under Texas Water Code (TWC), Chapters 49 - 66 [of the Texas Water Code];

(5) [(6)] districts' proposed impact fees, charges, assessments, or contributions approvable under Texas Local Government Code, Chapter 395;

(6) [(7)] extensions of time to commence or complete construction;

(7) [(8)] industrial and hazardous waste permits;

(8) [(9)] municipal solid waste permits;

(9) [(10)] on-site waste water disposal system permits;

(10) [(11)] radioactive material permits or licenses;

[(12)] rate matters for water and wastewater utilities under Texas Water Code, Chapters 11, 12, or 13;

(11) [(13)] underground injection control permits;

(12) [(14)] water rights permits;

(13) [(15)] wastewater permits;

(14) [(16)] weather modification measures permits;

(15) [(17)] driller licenses under TWC [Texas Water Code], Chapter 32;

(16) [(18)] pump installer licenses under TWC [Texas Water Code], Chapter 33;

(17) [(19)] irrigator or installer registrations under TWC [Texas Water Code],
Chapter 34;

(18) [(20)] municipal management district matters under Texas Local
Government Code, Chapter 375;

(19) [(21)] determination of the financial, managerial, and technical capacity of
applicants for loans from the Texas Water Development Board, if requested by that agency;
and

(20) [(22)] certification of an organization that is installing plumbing in a "self-
help" project, in a county any part of which is within 50 miles of an international border.

(c) This subchapter does not apply to:

(1) air quality standard permits under Chapter 116 of this title;

(2) air quality permits under Chapter 122 of this title (relating to Federal
Operating Permits Program);

(3) air quality standard exemptions;

(4) consolidated proceedings covering additional matters not within the scope of subsection (b) of this section;

(5) district matters under TWC [Texas Water Code], Chapters 49 - 66, as follows:

(A) an appeal under TWC [Texas Water Code], §49.052 by a member of a district board concerning his removal from the board;

(B) an application under TWC [Texas Water Code], Chapter 49, Subchapter K, for the dissolution of a district;

(C) an application under TWC [Texas Water Code], §49.456 for authority to proceed in bankruptcy;

(D) an appeal under TWC [Texas Water Code], §54.239, of a board decision involving the cost, purchase, or use of facilities;

(E) an application under TWC [Texas Water Code], §49.351 for approval of a fire department or fire-fighting services plan; or

(F) an application under TWC [Texas Water Code], §54.030 for conversion of a district to a municipal utility district;

(6) emergency or temporary orders or temporary authorizations;

(7) actions of the executive director under Chapters 101, 111 - 115 [111, 112, 113, 114, 115], 117, and 118[, and 119] of this title (relating to General Air Quality Rules; Control of Air Pollution From Visible Emissions and Particulate Matter; Control of Air Pollution From Sulfur Compounds; Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants [Control of Air Pollution From Toxic Materials]; Control of Air Pollution From Motor Vehicles; Control of Air Pollution From Volatile Organic Compounds; Control of Air Pollution From Nitrogen Compounds; and Control of Air Pollution Episodes[; and Control of Air Pollution From Carbon Monoxide]);

(8) all compost facilities authorized to operate by registration under Chapter 332 of this title (relating to Composting); and

(9) an application for creation of a municipal management district under Texas Local Government Code, Chapter 375.

(d) Regardless of subsection [Notwithstanding subsections] (b) or (c) of this section, when the rules governing a particular type of application allow a motion for reconsideration,

§50.39(b) - (f) of this title (relating to Motion for Reconsideration) applies. If the rules under which the executive director evaluates a registration application provide criteria for evaluating the application, the commission's reconsideration will be limited to those criteria.

§50.45. Corrections to Permits.

(a) This section applies to a permit as defined in §3.2 of this title (relating to Definitions), except that it does not apply to air quality permits under Chapter 122 of this title (relating to Federal Operating Permits Program). The executive director, on his own motion or at the request of the permittee, may make a non-substantive [nonsubstantive] correction to a permit either by reissuing the permit or by issuing an endorsement to the permit, without observing formal amendment or public notice procedures. The executive director must notify the permittee that the correction has been made and forward a copy of the endorsement or corrected permit for filing in the agency's official records.

(b) The executive director may issue non-substantive [nonsubstantive] permit corrections under this section:

(1) to correct a clerical or typographical error;

(2) to change the mailing address of the permittee, if updated information is provided by the permittee;

(3) if updated information is provided by the permittee, to change the name of an incorporated permittee that amends its articles of incorporation only to reflect a name change, provided that the secretary of state can verify that a change in name alone has occurred;

[(4) to describe more accurately the location of the area certificated under a certificate of convenience and necessity;]

[(5) to update or redraw maps that have been incorporated by reference in a certificate of convenience and necessity;]

(4) [(6)] to describe more accurately in a water rights permit or certificate of adjudication the boundary of or the point, rate, or period of diversion of water;

(5) [(7)] to describe more accurately the location of the authorized point or place of discharge, injection, deposit, or disposal of any waste, or the route which any waste follows along the watercourses in the state after being discharged;

(6) [(8)] to describe more accurately the pattern of discharge or disposal of any waste authorized to be disposed of;

(7) [(9)] to describe more accurately the character, quality, or quantity of any waste authorized to be disposed of; or

(8) [(10)] to state more accurately or update any provision in a permit without changing the authorizations or requirements addressed by the provision.

(c) Before the executive director makes a correction to a permit under this section, the executive director shall inform the general counsel of the proposed correction, and shall provide a copy of such information to the public interest counsel. Review by the general counsel and the public interest counsel under this subsection does not apply to a correction described in subsection (b)(2) or (3) of this section. The public interest counsel shall advise the general counsel of any objections to the proposed correction. The general counsel shall act within five business days of receiving the executive director's proposal. If the general counsel determines that the proposed correction should not be issued under this section, the executive director shall not issue the correction, but may set the matter for commission action during a commission meeting. If the general counsel fails to act within five business days, the executive director may issue the correction as proposed.

SUBCHAPTER G: ACTION BY THE EXECUTIVE DIRECTOR

§50.131, §50.145

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; and TWC, §5.103, concerning Rules, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the TWC and other laws of this state.

The proposed amendments implement House Bill 1600 and Senate Bill 567 passed by the 83rd Texas Legislature, 2013.

§50.131. Purpose and Applicability.

(a) The purpose of this subchapter is to delegate authority to the executive director and to specify applications on which the executive director may take action on behalf of the commission. This subchapter does not affect the executive director's authority to act on an application where that authority is delegated elsewhere.

(b) This subchapter applies to applications that are administratively complete on or after September 1, 1999 to certifications of Water Quality Management Plan (WQMP)

updates. Applications that are administratively complete before September 1, 1999 are subject to Subchapter B of this chapter (relating to Action by the Commission). Except as provided by subsection (c) of this section, this subchapter applies to:

(1) air quality permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);

(2) appointments to the board of directors of districts created by special law;

(3) certificates of adjudication;

[(4) certificates of convenience and necessity;]

(4) [(5)] district matters under Texas Water Code (TWC), Chapters 49 - 66 [of the Texas Water Code];

(5) [(6)] districts' proposed impact fees, charges, assessments, or contributions approvable under Texas Local Government Code, Chapter 395;

(6) [(7)] extensions of time to commence or complete construction;

(7) [(8)] industrial and hazardous waste permits;

(8) [(9)] municipal solid waste permits;

(9) [(10)] on-site wastewater disposal system permits;

(10) [(11)] radioactive waste or radioactive material permits or licenses;

[(12)] rate matters for water and wastewater utilities under Texas Water Code, Chapters 11, 12, or 13;

(11) [(13)] underground injection control permits;

(12) [(14)] water rights permits;

(13) [(15)] wastewater permits;

(14) [(16)] weather modification measures permits;

(15) [(17)] driller licenses under TWC [Texas Water Code], Chapter 32;

(16) [(18)] pump installer licenses under TWC [Texas Water Code], Chapter 33;

(17) [(19)] irrigator or installer registrations under TWC [Texas Water Code], Chapter 34; and

(18) [(20)] municipal management district matters under Texas Local Government Code, Chapter 375.

(c) In addition to those things excluded from coverage under [this chapter in] §50.102 of this title (relating to Applicability), this subchapter does not apply to:

(1) air quality standard permits under Chapter 116 of this title;

(2) air quality exemptions from permitting and permits by rule under Chapter 106 of this title (relating to Permits by Rule [Exemptions from Permitting]) except for concrete batch plants which are not contiguous or adjacent to a public works project;

(3) consolidated proceedings covering additional matters not within the scope of subsection (b) of this section;

(4) district matters under TWC [Texas Water Code], Chapters 49 - 66, as follows:

(A) an appeal under TWC [Texas Water Code], §49.052 by a member of a district board concerning his removal from the board;

(B) an application under TWC [Texas Water Code], Chapter 49, Subchapter K, for the dissolution of a district;

(C) an application under TWC [Texas Water Code], §49.456 for authority to proceed in bankruptcy;

(D) an appeal under TWC [Texas Water Code], §54.239, of a board decision involving the cost, purchase, or use of facilities; or

(E) an application under TWC [Texas Water Code], §54.030 for conversion of a district to a municipal utility district;

(5) actions of the executive director under Chapters 101, 111 - 115, [111, 112, 113, 114, 115,] 117, and 118[, and 119] of this title (relating to General Air Quality Rules; Control of Air Pollution From Visible Emissions and Particulate Matter; Control of Air Pollution From Sulfur Compounds; Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants [Control of Air Pollution From Toxic Materials]; Control of Air Pollution From Motor Vehicles; Control of Air Pollution From Volatile Organic

Compounds; Control of Air Pollution From Nitrogen Compounds; and Control of Air Pollution Episodes]; and Control of Air Pollution From Carbon Monoxide)];

(6) all compost facilities authorized to operate by registration under Chapter 332 of this title (relating to Composting); and

(7) an application for creation of a municipal management district under Texas Local Government Code, Chapter 375.

(d) Regardless of subsection [Notwithstanding subsections] (b) or (c) of this section, when the rules governing a particular type of application allow a motion for reconsideration, §50.139(b) - (f) of this title (relating to Motion to Overturn Executive Director's Decision) applies. If the rules under which the executive director evaluates a registration application provide criteria for evaluating the application, the commission's reconsideration will be limited to those criteria.

§50.145. Corrections to Permits.

(a) This section applies to a permit as defined in §3.2 of this title (relating to Definitions), except that it does not apply to air quality permits under Chapter 122 of this title (relating to Federal Operating Permits Program). The executive director, on his own motion or at the request of the permittee, may make a non-substantive [nonsubstantive]

correction to a permit either by reissuing the permit or by issuing an endorsement to the permit, without observing formal amendment or public notice procedures. The executive director must notify the permittee that the correction has been made and forward a copy of the endorsement or corrected permit for filing in the agency's official records.

(b) The executive director may issue non-substantive [nonsubstantive] permit corrections under this section:

(1) to correct a clerical or typographical error;

(2) to change the mailing address of the permittee, if updated information is provided by the permittee;

(3) if updated information is provided by the permittee, to change the name of an incorporated permittee that amends its articles of incorporation only to reflect a name change, provided that the secretary of state can verify that a change in name alone has occurred;

[(4) to describe more accurately the location of the area certificated under a certificate of convenience and necessity;]

[(5) to update or redraw maps that have been incorporated by reference in a certificate of convenience and necessity;]

(4) [(6)] to describe more accurately in a water rights permit or certificate of adjudication the boundary of or the point, rate, or period of diversion of water;

(5) [(7)] to describe more accurately the location of the authorized point or place of discharge, injection, deposit, or disposal of any waste, or the route which any waste follows along the watercourses in the state after being discharged;

(6) [(8)] to describe more accurately the pattern of discharge or disposal of any waste authorized to be disposed of;

(7) [(9)] to describe more accurately the character, quality, or quantity of any waste authorized to be disposed of; or

(8) [(10)] to state more accurately or update any provision in a permit without changing the authorizations or requirements addressed by the provision.

(c) Before the executive director makes a correction to a permit under this section, the executive director shall inform the general counsel of the proposed correction, and shall provide a copy of such information to the public interest counsel. Review by the general

counsel and the public interest counsel under this subsection does not apply to a correction described in subsection (b)(2) or (3) of this section. The public interest counsel shall advise the general counsel of any objections to the proposed correction. The general counsel shall act within five business days of receiving the executive director's proposal. If the general counsel determines that the proposed correction should not be issued under this section, the executive director shall not issue the correction, but may set the matter for commission action during a commission meeting. If the general counsel fails to act within five business days, the executive director may issue the correction as proposed.