

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** September 14, 2018

Thru: Bridget C. Bohac, Chief Clerk
Toby Baker, Executive Director

From: Ramiro Garcia, Jr., Deputy Director
Office of Compliance and Enforcement

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2018-1136-PET

Project No.: 2018-037-PET-NR

Who Submitted the Petition:

On August 15, 2018, the Texas Commission on Environmental Quality (commission or TCEQ) received a petition from Ms. Nancy Hernandez (petitioner).

What the Petitioner Requests:

The petitioner requested that the commission amend 30 TAC §213.23(a)(2) of Title 30, Texas Administrative Code (TAC) Chapter 213, Edwards Aquifer, Subchapter B, concerning Plan Processing and Approval, to enhance public notification methods.

Specifically, the petitioner requested that 30 TAC §213.23(a)(2) be changed to require that Contributing Zone Plans (CZP) be entered into the Commissioner's Integrated Database (CID) to allow for distribution of the formal public notifications within the existing 30-day public comment period. Additionally, the petitioner requested that notices related to a CZP's technical completeness, and its approval or denial, be incorporated into the CID's mailing list/notice process.

The petitioner also requested an alternative to immediately begin the public notice process by having the Chief Clerk maintain a mailing list of persons requesting notice of CZP administratively complete applications, per 30 TAC §39.407.

Recommended Action and Justification:

The executive director recommends denial of the petition. The executive director recommends procedural changes to build upon the recently implemented Edwards Aquifer program's notification process. Electronic copies of applications are now distributed to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located as required by 30 TAC §213.23(a)(2) and Texas Water Code (TWC), §26.137.

The executive director holds annual Edwards Aquifer Program Meetings which are next scheduled for October 23, and October 24, 2018. These meetings are held to receive formal comments.

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Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule;
- 30 TAC §20.15, which provides such procedures specific to the commission;
- 30 TAC §213.23(a)(2), which provides that the appropriate regional office will provide copies of CZP applications to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located within five days of the application being declared administratively complete;
- 30 TAC §213.4(a)(2), which provides that the appropriate regional office will provide copies of applications for regulated activities over the recharge zone to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located within five days of the application being declared administratively complete; and
- TWC, §26.137, which provides that the commission must provide for a 30-day comment period during the review process for Edwards Aquifer Protection Plans in the Contributing Zone of the Edwards Aquifer as provided in 30 TAC §213.4(a)(2).

Agency contacts:

Anne Ruthstrom, Rule Project Manager, Program Support Division, (512) 239-0855
Robert Sadlier, Team Leader, Austin Region 11, (512) 239-7047
Michael Parr, Staff Attorney, (512) 239-0611
Paige Bond, Agenda Coordinator, (512) 239-2678

Attachments:

Petition

cc: Chief Clerk, 2 copies
Executive Director's Office
Dennise Braeutigam
Barbara Robinson
Jim Rizk
Office of General Counsel
Susan Jablonski
Anne Ruthstrom
Paige Bond