

SUBCHAPTER A: PURPOSE AND APPLICABILITY
§§91.10, 91.20, 91.30
Effective March 29, 2006

§91.10. Purpose.

The purpose of this subchapter is to establish streamlined processes under Texas Water Code, §5.558, for the commission to issue permits, registrations, licenses, or other types of authorization under the commission's jurisdiction required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions).

Adopted February 22, 2006

Effective March 29, 2006

§91.20. Applicability.

(a) This subchapter applies to procedural requirements for authorizations required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions), including applications for permits, registrations, licenses, or other types of authorization under the following:

- (1) Chapter 295 of this title (relating to Water Rights, Procedural);
- (2) Chapter 297 of this title (relating to Water Rights, Substantive);
- (3) Chapter 305 of this title (relating to Consolidated Permits);
- (4) Chapter 312 of this title (relating to Sludge Use, Disposal, and Transportation);
- (5) Chapter 329 of this title (relating to Drilled or Mine Shafts);
- (6) Chapter 330 of this title (relating to Municipal Solid Waste);
- (7) Chapter 331 of this title (relating to Underground Injection Control);
- (8) Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Solid Waste); and
- (9) Chapter 336 of this title (relating to Radioactive Substance Rules).

(b) Applications for permits, registrations, licenses, or other types of authorization required to construct, operate, or authorize a component of the FutureGen project as defined under §91.30 of this title are subject to the technical requirements under the commission program, rule, or statute that the application is sought.

(c) This subchapter does not apply to an application for a permit to construct or modify a new

or existing coal-fired electric generating facility that will use pulverized or supercritical pulverized coal.

(d) The executive director may apply the requirements of this subchapter to any application not otherwise specified in this subchapter for which the executive director determines constitutes a bona fide component of the FutureGen project.

(e) If the executive director determines that an application is not subject to the applicability of this subchapter, the application will be subject to the permitting and public participation process that would otherwise apply to the type of authorization sought.

(f) An applicant may appeal a determination by the executive director under subsection (e) of this section, by filing a motion under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision).

(g) Applications for authorization submitted under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) shall be subject to the public notice and participation procedures stated in Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities), and any applicable rules in Chapters 39 and 55 of this title (relating to Public Notice and Requests for Reconsideration and Contested Case Hearings; Public Comment).

(h) This chapter does not apply to any applications or other requests for authorization submitted after January 1, 2018.

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§91.30. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) **Clean coal project**--The installation of one or more components of the coal-based integrated sequestration and hydrogen research project to be built in partnership with the United States Department of Energy, commonly referred to as the FutureGen project. The term includes the construction or modification of a facility for electric generation, industrial production, or the production of steam as a by-product of coal gasification to the extent that the facility installs one or more components of the FutureGen project.

(2) **Coal**--All forms of coal, including lignite.

(3) **Component of the FutureGen project**--A process, technology, or piece of equipment that:

(A) is designed to employ coal gasification technology to generate electricity, hydrogen, or steam in a manner that meets the FutureGen project profile;

(B) is designed to employ fuel cells to generate electricity in a manner that

meets the FutureGen project profile;

(C) is designed to employ a hydrogen-fueled turbine to generate electricity where the hydrogen is derived from coal in a manner that meets the FutureGen project profile;

(D) is designed to demonstrate the efficacy at an electric generation or industrial production facility of a carbon dioxide capture technology in a manner that meets the FutureGen project profile;

(E) is designed to sequester a portion of the carbon dioxide captured from an electric generation or industrial production facility in a manner that meets the FutureGen project profile in conjunction with appropriate remediation plans and appropriate techniques for reservoir characterization, injection control, and monitoring;

(F) is designed to sequester carbon dioxide as part of enhanced oil recovery in a manner that meets the FutureGen project profile in conjunction with appropriate techniques for reservoir characterization, injection control, and monitoring;

(G) qualifies for federal funds designated for the FutureGen project;

(H) is required to perform the sampling, analysis, or research necessary to submit a proposal to the United States Department of Energy for the FutureGen project; or

(I) is required in a final United States Department of Energy request for proposals for the FutureGen project or is described in a final United States Department of Energy request for proposals as a desirable element to be considered in the awarding of the project.

(4) **FutureGen project**--A common reference to the coal-based integrated sequestration and hydrogen project to be built in partnership with the United States Department of Energy.

(5) **FutureGen project profile**--A standard or standards relevant to a component of the FutureGen project, as provided in a final or amended United States Department of Energy request for proposals or contract.

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