

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



A RESOLUTION Setting Responsibilities of the Commission, Executive Director, and Executive Director Staff. TCEQ Docket No. 2024-0440-RES.

To effectively administer its duties and establish policy, the Texas Commission on Environmental Quality (TCEQ or Agency) adopts this resolution to formalize the policies that separate the policymaking responsibilities of the Commission¹ and the management responsibilities of the Executive Director and Executive Director staff.² Texas Water Code §§ 5.102, 5.108, 5.112, 5.113, 5.124, 5.221-5.223, and 5.228 provide the guidelines, general powers and legal framework for the functions and duties of the Commission, the Executive Director, and Executive Director staff.³

In consideration of these provisions, the Commission establishes the following.

1. The Commission appoints the Executive Director, who serves at the will of the Commission.⁴
2. The Commission has the statutory authority to develop policy.⁵
 - a) The Executive Director provides guidance, direction, assistance, and recommendations to Executive Director staff who assist the Commission in drafting Agency policy.
 - b) The Commission seeks the advice and counsel of Executive Director staff through the Executive Director.
3. The Commission proposes and adopts rules.
 - a) The Executive Director provides guidance, assistance, and recommendations to the Commission on rulemakings.
 - b) The Commission provides direction and support to the Executive Director in carrying out the rules established by the Commission.

¹ "Commission" refers to the three Governor-appointed Commissioners, not the agency as a whole.

² For purposes of this Resolution, Executive Director staff is defined as all TCEQ employees that are under the direction of the Executive Director and excludes staff that are under the direction of the Commissioners. This resolution does not address staff under the direction of the Commissioners.

³ Other authority specifying the many programmatic powers or duties of the Commission and Executive Director may be found throughout the agency's authorizing statutes. *See, for example*, Texas Water Code, Chapters 7 and 27, and Texas Health & Safety Code, Chapters 361 and 382.

⁴ Texas Water Code § 5.108

⁵ Texas Water Code § 5.105.

- c) The Executive Director, through the Executive Director's staff, communicates and implements Agency rules.
- 4. The Commission approves the Agency budget recommendation to the Texas Legislature and the Agency's operating budget.
 - a) The Executive Director develops a draft budget for Commission consideration and provides guidance, assistance, and recommendations on budget issues.
 - b) The Executive Director makes expenditures for Agency operations.
 - c) The Executive Director implements the operation and management of the Agency's approved budget.
 - d) The Executive Director enters contracts and memoranda of understanding the Executive Director or the Commission considers necessary or suitable to fulfill the duties of the Agency.
- 5. The Executive Director exercises only those powers and duties specifically granted by the Legislature or Commission. The Commission retains – to exercise or separately delegate – all rights, powers, and duties granted or conferred by law to the Commission.
- 6. The Commission may, where appropriate, assign other duties to the Executive Director and Executive Director staff.
- 7. The Executive Director manages the administrative affairs of the Executive Director's staff subject to statute and other laws and the general supervision and direction of the Commission.⁶
- 8. The Commission holds the Executive Director directly accountable for the implementation of the Commission's policies and the Agency's daily operations.
 - a) The Executive Director coordinates the activities of the Executive Director's staff, and the Executive Director's staff is responsible for the performance of their duties.
 - b) Subject to the approval of the Commission, the Executive Director determines the organization and structure of the Agency in a manner and form to achieve efficiency and effectiveness.
 - c) The Executive Director oversees the Executive Director's staff, including appointing, employing, evaluating, and terminating the Executive Director's staff. The Executive Director also prescribes the powers and duties of the Executive Director's staff.
- 9. The Executive Director communicates with the Commission regarding significant matters relating to implementation of policy.
- 10. The Executive Director communicates with the Commission regarding matters of general interest to the Commission and significant administrative developments, including fiscal, personnel, and organizational matters.

⁶ Texas Water Code § 5.221.

NOW, THEREFORE, IT IS RESOLVED by the Texas Commission on Environmental Quality that:

1. The Commission and the Executive Director will consider the division of functions and responsibilities between the Commission, the Executive Director, and the Executive Director's staff in conducting Agency work.
2. The Commission will make constructive suggestions and criticisms regarding the operations and management of the Agency through the Executive Director; and
3. The Executive Director will create, develop, and maintain, in consultation with the Commission, standard operating procedures for implementing Commission policy, managing the Agency operations, and keeping the Commission informed of significant administrative developments, including fiscal, personnel, and organizational matters. The standard operating procedures must also provide for consistent treatment of matters that have been designated to require Commission policy approval.

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Jon Niermann, Chairman

Date Signed