

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed Rulemaking

AGENDA REQUESTED: January 14, 2026

DATE OF REQUEST: December 23, 2025

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Vanessa Onyskow-Lang, Rule/Agenda Coordinator, (512) 239-0682

CAPTION: Docket No. 2025-1420-RUL. Consideration for publication of, and hearing on, proposed amendments of 30 TAC Chapter 293, Water Districts, Subchapter C, Special Requirements for Groundwater Conservation Districts, Section 293.23, Petition Requesting Commission Inquiry.

The proposed rulemaking would implement House Bill (HB) 2080 from the 89th Legislature, 2025, Regular Session. The proposed rulemaking would clarify that a review panel is an advisory board and not a governmental body. It would also require that the recording secretary be a TCEQ employee and to specify that records maintained by the recording secretary must be provided to the executive director and are public documents. The proposed rulemaking would include notice requirements for meetings or hearings held by the review panel. The proposal would also require the commission to reimburse review panel members for actual expenses incurred while engaging in activities on behalf of the panel. The proposed rulemaking would extend the timeframe to process the petition if the panel seeks technical assistance from the Texas Water Development Board and would specify that the review panel may request legal assistance from the commission's Office of Public Interest Counsel. Lastly, the proposed rulemaking would clarify that the review panel is not prohibited from seeking technical assistance or legal advice from entities other than TWDB and OPIC. (Cindy Hooper, Harrison "Cole" Malley; Rule Project No. 2026-001-293-OW)



Director

Kathy Alexander

Division Deputy Director

Vanessa Onyskow-Lang
Agenda Coordinator

Copy to CCC Secretary? NO ☒ YES ☐

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** December 23, 2025

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Cari-Michel La Caille, Director
Office of Water

Docket No.: 2025-1420-RUL

Subject: Commission Approval for Proposed Rulemaking
30 Texas Administrative Code (TAC) Chapter 293, Water Districts
Rule Project No. 2026-001-293-OW

Background and reason(s) for the rulemaking:

The purpose of this rulemaking is to implement the provisions of House Bill (HB) 2080, passed during the 89th Legislature's Regular Session in 2025. This bill amended Texas Water Code (TWC), §36.3011 to provide additional information and requirements regarding the Texas Commission on Environmental Quality's (commission or TCEQ) process for reviewing a petition filed by an affected person pertaining to the actions of a groundwater conservation district (GCD).

HB 2080 amended TWC, §36.3011(d) and added TWC, §36.3011(d-1), (d-2), (d-3), (e-1), (e-2), (e-3), and (e-4). Specifically, HB 2080 requires an employee of TCEQ to act as a recording secretary of a review panel. It clarifies that the review panel is an advisory board and not a governmental body. It requires TCEQ to reimburse members appointed to the review panel for actual expenses incurred. The statute also requires the records and documents of the recording secretary to be provided to the executive director (ED) and specifies that those records are public information. It requires the ED to provide notice of review panel public meetings and public hearings. The legislation allows the review panel to request technical assistance related to the petition from the Texas Water Development Board (TWDB) and to extend the deadline for the review by 120 days if such assistance is requested. The legislation also allows a member of the review panel to request legal advice and assistance on a matter pertaining to the petition from the commission's Office of Public Interest Counsel (OPIC). However, the statute does not prohibit members of the review panel from using their own technical consultants or legal counsel.

The bill addressed issues identified in the *TCEQ Sunset Self-Evaluation Report* (SFR-123/21) and the *Priority Groundwater Management Areas and Groundwater Conservation Districts Report to the 89th Legislature* (SFR-53/24).

Scope of the rulemaking:

A.) Summary of what the rulemaking would do:

The proposed amendments to 30 TAC §293.23, Petition Requesting Commission Inquiry, update subsection (g) to implement HB 2080. Specifically, the amendments would clarify that the review panel is an advisory board and not a governmental body. The proposed rulemaking would require that the recording secretary be a TCEQ employee, specify that records maintained by the recording secretary must be provided to the executive director (ED), and clarify such records are public documents. The proposed rulemaking would include notice requirements for meetings or hearings held by the review panel and would require TCEQ to reimburse review panel members for actual expenses incurred while engaging in activities on behalf of the panel. The proposed rulemaking would extend the timeframe for the petition process by 120 days if the review panel seeks technical assistance from the TWDB. The proposed amendment would also specify that the review

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panel may request legal assistance from the Office of the Public Interest Council (OPIC). Lastly, the proposed amendment would clarify that members of the review panel are not prohibited from seeking technical assistance or legal advice from entities other than TWDB and OPIC.

B.) Scope required by federal regulations or state statutes:

The scope of this rulemaking is defined by state statute at TWC, §36.3011.

C.) Additional staff recommendations that are not required by federal rule or state statute:

The rulemaking would not incorporate any additional changes that are not required by state statute. However, staff propose to develop a document which details the reimbursable expenses and the process for receiving reimbursement. This document would be provided to panel members upon assignment. The document will not be referenced within the proposed rules.

Statutory authority:

- TWC, §5.012, which provides that the commission is the agency responsible for implementing the constitution and laws of the state relating to conservation of natural resources and protection of the environment;
- TWC, §5.013 establishes the commission's authority over groundwater;
- TWC, §5.103 and §5.105, which establish the commission's general authority to adopt rules; and
- TWC, §36.3011, which establishes the commission's authority to, upon petition by an affected person, select a review panel to review activities regarding the management planning or rules of a groundwater conservation district.

Effect on the:

A.) Regulated community:

Participants of the review panel would be eligible to receive reimbursement for actual expenses incurred resulting from participation. They would also have access to technical assistance as well as legal advice and assistance.

B.) Public:

This rulemaking would establish clear requirements and procedures for public notice. The public notice would ensure members of the public are aware of and can attend and participate in review panel public meetings.

C.) Agency programs:

The agency would need to allocate resources from appropriated funds to account for reimbursing panel members. OPIC is required to provide legal advice and assistance to the panel, if requested. TCEQ is also now required to provide the district subject to the petition, the petitioner, and the county clerk of each county in the district with seven days' notice of any public meetings or hearings related to the petition. This notice will need to be posted on the commission's Internet website as well as mailed to these individuals.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking. A rule public hearing will be held during the comment period. The public meeting will be held both virtually and in person.

Public Involvement Plan

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In addition to the statutory public notice requirements, TCEQ will develop a public involvement plan to encourage public participation. A plain language summary will also be provided.

Alternative Language Requirements

Yes, Spanish.

Potential controversial concerns and legislative interest:

None.

Would this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

There are no alternatives that will allow TCEQ rules to be consistent with state statute.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: January 14, 2026

Anticipated *Texas Register* publication date: January 30, 2026

Anticipated public hearing date: February 24, 2026

Anticipated public comment period: January 30, 2026 to March 3, 2026

Anticipated adoption date: June 17, 2026

Agency contacts:

Cindy Hooper, Rule Project Manager, Water Availability Division, (512) 239-4271

Travis Bartos, Special Assistant, Water Availability Division (512) 239-4714

Harrison "Cole" Malley, Staff Attorney, Environmental Law Division, (512) 239-1439

Vanessa Onyskow-Lang, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-0682

Attachments:

House Bill 2080

cc: Chief Clerk, 2 copies
Executive Director's Office
Patrick Lopez
Jessie Powell
Farrah Court
Office of General Counsel
Cindy Hooper
Harrison "Cole" Malley
Travis Bartos
Vanessa Onyskow-Lang

AN ACT

relating to the review of the duties of a groundwater conservation district by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 36.3011, Water Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), (d-3), (e-1), (e-2), (e-3), and (e-4) to read as follows:

(d) If the petition is not dismissed under Subsection (c), the commission shall appoint a review panel consisting of a chairperson and four other members. A director or general manager of a district located outside the management area that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary must ~~may~~ be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

(d-1) A review panel established under Subsection (d) is an advisory body to the commission and not a governmental body under Chapter 551 or 552, Government Code.

(d-2) The commission shall reimburse a member appointed to the review panel for actual expenses incurred while engaging in activities on behalf of the review panel. To be eligible for

reimbursement, the member must file with the executive director a verified statement, including any relevant receipts, describing the expenses incurred. A member appointed to the review panel is not entitled to a fee of office or other compensation for serving on the review panel.

(d-3) The records and documents of the recording secretary of the proceedings of the review panel must be provided to the executive director and are public information under Chapter 552, Government Code.

(e-1) Not later than the seventh day before the date of a public meeting or public hearing of the review panel under Subsection (e), the executive director shall provide notice of any public meeting or public hearing the review panel is directed to conduct by:

(1) posting notice on the commission's Internet website; and

(2) delivering notice by regular mail to:

(A) the district that is the subject of the petition;

(B) the petitioner; and

(C) the county clerk of each county in the district that is the subject of the petition.

(e-2) The commission or the review panel may submit a written request to the executive administrator for assistance on a technical issue related to the petition. The executive administrator shall provide the technical assistance not later than the 120th day after the date the executive administrator receives

1 the request. A deadline under Subsection (c), (e), or (h) is
2 extended by 120 days if a request for technical assistance is
3 submitted to the executive administrator during a review phase
4 under that subsection.

5 (e-3) On request from a member of the review panel, the
6 office of public interest counsel of the commission shall provide
7 legal advice and assistance to the review panel. Notwithstanding
8 Section 5.273, the office of public interest counsel:

9 (1) may not participate as a party in an inquiry under
10 this section; and

11 (2) has no duty or responsibility to represent the
12 public interest or otherwise in an inquiry except as provided by
13 this subsection.

14 (e-4) Subsections (e-2) and (e-3) do not prohibit a member
15 of the review panel from using the member's own technical
16 consultant or legal counsel.

17 SECTION 2. The changes in law made by this Act apply to a
18 petition requesting an inquiry regarding the duties of a
19 groundwater conservation district filed with the Texas Commission
20 on Environmental Quality on or after the effective date of this Act.
21 A petition filed with the Texas Commission on Environmental Quality
22 before the effective date of this Act is governed by the law in
23 effect on the date the petition was filed, and the former law is
24 continued in effect for that purpose.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 2080

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2025.

H.B. No. 2080

President of the Senate

Speaker of the House

I certify that H.B. No. 2080 was passed by the House on May 16, 2025, by the following vote: Yeas 118, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2080 on May 28, 2025, by the following vote: Yeas 123, Nays 12, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2080 was passed by the Senate, with amendments, on May 26, 2025, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor

HB 2080: Update to 30 TAC Chapter 293 Relating to a Petition Requesting Commission Inquiry of a Groundwater Conservation District Plain Language Summary

Introduction

House Bill (HB) 2080 was passed in the 89th Legislature's Regular Session in 2025. This bill amended Texas Water Code (TWC) Section 36.3011 to include additional requirements relating to TCEQ's process for reviewing a petition for inquiry filed by an affected person pertaining to the actions of a groundwater conservation district (GCD).

The bill requires an employee of TCEQ to act as a recording secretary of the review panel. It requires the records and documents of the recording secretary to be provided to the executive director and specifies that they are public information. It clarifies that the review panel is an advisory board and not a governmental body, and it requires the executive director to provide notice of review panel public meetings and public hearings. This legislation also requires TCEQ to reimburse members appointed to the review panel for expenses incurred. Lastly, the legislation states that the review panel may request technical assistance related to the petition from the Texas Water Development Board as well as legal advice and assistance from the TCEQ's Office of Public Interest Counsel; however, the bill does not prohibit the review panel from using its own technical or legal counsel.

The commission is proposing to make changes to Title 30 Texas Administrative Code (TAC) Section 293.23 to implement this legislation.

Summary

This proposed rulemaking would amend 30 TAC Section 293.23 to be consistent with TWC §36.3011 as amended by HB 2080.

Public Comment and Hearing Information

TCEQ will offer a virtual and in-person public hearing on February 24, 2026, at 2:00 Central Standard Time. This hearing is offered to receive public comments on the proposed rulemaking project HB 2080: Update to 30 TAC Chapter 293 Relating to a Petition Requesting Commission Inquiry of a Groundwater Conservation District (Project No. 2026-001-293-OW).

The hearing will be conducted in English, and instructions for participating in the hearing will also be provided in Spanish. For accommodation needs, contact Sandy Wong, General Law Division at (512) 239-1802 or 1-800-RELAY-TX (TDD) as far in advance as possible.

The comment period for this project opens on January 30, 2026, and closes on March 3, 2026. Submit written comments through the *TCEQ Public Comments* system at

<https://tceq.commentinput.com/>. Comments for the proposed rulemaking must reference **Rule Project Number 2026-001-293-OW**.

The proposed rulemaking documents can be found on the TCEQ's website at <https://www.tceq.texas.gov/rules/prop.html>.

For more information about the proposal or to get help with submitting written comments, contact Cindy Hooper, Rule Project Manager, at (512) 239-4271 or Cindy.Hooper@tceq.texas.gov.

HB 2080: Actualización al Capítulo 293 del 30 TAC

Relacionada con una Petición Solicitando una Investigación de la Comisión sobre un Distrito de Conservación de Aguas Subterráneas – Resumen en Lenguaje Sencillo

Introducción

La Cámara de Representantes aprobó el Proyecto de Ley (HB) 2080 durante la Sesión Ordinaria de la 89.ª Legislatura en 2025. Este proyecto de ley enmendó la Sección 36.3011 del Código de Agua de Texas (TWC) para incluir requisitos adicionales relacionados con el proceso de TCEQ para revisar una petición de investigación presentada por una persona afectada con respecto a las acciones de un distrito de conservación de aguas subterráneas (GCD).

El proyecto de ley requiere que un empleado de TCEQ actúe como secretario/a de actas del panel de revisión. También requiere que los registros y documentos del secretario/a de actas se proporcionen al director ejecutivo y especifica que son información pública. Aclara que el panel de revisión es un consejo consultivo y no un organismo gubernamental, y requiere que el director ejecutivo proporcione aviso de las reuniones y audiencias públicas del panel de revisión. Esta legislación también exige que TCEQ reembolse a los miembros designados del panel de revisión los gastos en que incurran. Finalmente, la legislación indica que el panel de revisión puede solicitar asistencia técnica relacionada con la petición a la Junta de Desarrollo de Agua de Texas, así como asesoría y asistencia legal de la Oficina del Consejo de Interés Público de TCEQ; sin embargo, el proyecto de ley no prohíbe que el panel de revisión utilice su propio asesor técnico o legal.

La comisión propone realizar cambios a la Sección 293.23 del Título 30 del Código Administrativo de Texas (TAC) para implementar esta legislación.

Resumen

Esta propuesta de elaboración de reglas enmendaría la Sección 293.23 del 30 TAC para que sea consistente con la Sección 36.3011 del TWC, según lo enmendado por el HB 2080.

Información sobre Comentarios Públicos y Audiencia

TCEQ ofrecerá una audiencia pública virtual y presencial el 24 de febrero de 2026 a las 2:00 p.m., hora estándar del centro. Esta audiencia se ofrece para recibir comentarios públicos sobre el proyecto de elaboración de reglas HB 2080: Actualización al Capítulo 293 del 30 TAC Relacionada con una Petición Solicitando una Investigación de la Comisión sobre un Distrito de Conservación de Aguas Subterráneas (Proyecto No. 2026-001-293-OW).

La audiencia se llevará a cabo en inglés, y las instrucciones para participar también se proporcionarán en español. Para necesidades de adaptación, comuníquese con Sandy Wong, División de Ley General, al (512) 239-1802 o al 1-800-RELAY-TX (TDD) con la mayor anticipación posible.

El periodo de comentarios para este proyecto inicia el 30 de enero de 2026 y finaliza el 3 de marzo de 2026. Envíe comentarios por escrito a través del sistema de Comentarios Públicos de TCEQ en: <https://tceq.commentinput.com/>. Los comentarios sobre este proyecto de reglas deben hacer referencia al Número de Proyecto de Regla 2026-001-293-OW.

Los documentos de la propuesta de elaboración de reglas se encuentran disponibles en el sitio web de TCEQ en: <https://www.tceq.texas.gov/rules/prop.html>.

Para obtener más información sobre la propuesta o recibir ayuda para enviar comentarios por escrito, comuníquese con Cindy Hooper, Gerente del Proyecto de Reglas, al (512) 239-4271 o a Cindy.Hooper@tceq.texas.gov.

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to 30 Texas Administrative Code (TAC) §293.23.

Background and Summary of the Factual Basis for the Proposed Rules

The purpose of this rule proposal is to implement the provisions of House Bill (HB) 2080, passed during the 89th Legislature’s Regular Session in 2025. This bill provides additional information and requirements regarding TCEQ’s process for reviewing a petition for inquiry filed by an affected person pertaining to the actions of a groundwater conservation district (GCD).

HB 2080 amended Texas Water Code (TWC) §36.3011(d) and added §36.3011 (d-1), (d-2), (d-3), (e-1), (e-2), (e-3), and (e-4). Specifically, HB 2080 amended TWC §36.3011(d) to require the recording secretary of a review panel to be an employee of the commission. HB 2080 also adds §36.3011(d-1) clarifying that the review panel is an advisory board and not a governmental body. TWC §36.3011(d-2) requires TCEQ to reimburse a member appointed to the review panel for actual expenses incurred. TWC §36.3011(d-3) requires the records and documents of the recording secretary to be provided to the executive director and specifies that these records are public information. TWC §36.3011(e-1) requires the executive director to provide notice of review panel public meetings and public hearings. TWC §36.3011(e-2) states that the review panel may request technical assistance related to the petition from the Texas Water Development Board (TWDB) and that if assistance is requested, the deadline for the review is extended. TWC §36.3011(e-3) states that a member of the review panel can request

legal advice and assistance on a matter pertaining to the petition from the TCEQ's Office of Public Interest Counsel (OPIC). Lastly, TWC §36.3011(e-4) states that subsections (e-2) and (e-3) do not prohibit members of the review panel from using their own technical consultants or legal counsel.

Section by Section Discussion

The proposed amendment to §293.23, Petition Requesting Commission Inquiry, updates subsection (g) to implement HB 2080. Specifically, it amends paragraph §293.23(g) to clarify that the panel is an advisory board and not a governmental body. It also amends subsection §293.23(g)(2) to require that the recording secretary be a TCEQ employee and to specify that records maintained by the recording secretary must be provided to the executive director and are public documents. Section §293.23(g)(3) is amended to include notice requirements for meetings or hearings held by the review panel. The proposal also adds subsection §293.23(g)(5) to require the commission to reimburse review panel members for actual expenses incurred while engaging in activities on behalf of the panel. Reimbursable expenses will be limited to those associated with meals, travel, and lodging. Once the Commission appoints a panel, information about reimbursable expenses and the process for getting reimbursed will be provided and will generally follow agency procedures.

The proposed amendment also adds §293.23(g)(6) which extends the timeframe for the commission's review of the petition if the review panel seeks technical assistance from TWDB. The proposed amendment also adds §293.23(g)(7) to specify that the review

panel may request legal assistance from the commission's OPIC. Lastly, the proposed amendment adds §293.23(g)(8) which clarifies that the review panel is not prohibited from seeking technical assistance or legal advice from entities other than TWDB and OPIC.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is 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 rule.

Public Benefits and Costs

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be rule language that is consistent with state law, specifically HB 2080 from the 89th Regular Legislative Session (2025). The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

Local Employment Impact Statement

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

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does 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 rule for the first five-year period the proposed rules are in effect.

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 rule does 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 and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation

of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble

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 purpose of this rulemaking is to amend existing rules to implement HB 2080, 89th Texas Legislature (2025), which provided revised requirements for TCEQ’s review of a petition filed by an affected person pertaining to the actions of a GCD.

Second, the proposed rulemaking does not meet the statutory definition of a “Major environmental rule” because the proposed rule 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 rule will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the proposed rule 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 regulation of groundwater conservation districts; 2) does not exceed any express requirements of state law related to the regulation of groundwater conservation districts; 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.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. 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 rulemaking and performed an analysis of whether the

proposed rule would constitute a taking. Texas Government Code, §2007.002(5), defines a taking as either: 1) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Sections 17 or 19, Article I, Texas Constitution; or 2) a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. The commission determined that the proposed rule would not constitute a taking as that term is defined under Texas Government Code, §2007.002(5). Specifically, the proposed rule would not affect any landowner's rights in private real property, and there are no burdens that would be imposed on private real property by the proposed amendments to 30 TAC § 293.23. The proposed amendments solely address the review of the duties of a groundwater conservation district.

Consistency with the Coastal Management Program

The commission reviewed the amended rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or

(4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program (CMP).

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 hybrid virtual and in-person public hearing on this proposal in Austin on February 24, 2026 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 at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Friday, February 20, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Monday, February 23, 2026,

to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/9ca36b32-14f2-4295-b5f6-94987017d629@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

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 Vanessa Onyskow-Lang, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2026-001-293-OW. The comment period closes on March 3, 2026. Please choose one of the methods provided to submit your written comments.

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 Cindy Hooper, Rule Project Manager, Water Availability Division, (512) 239-4271.

SUBCHAPTER C: SPECIAL REQUIREMENTS FOR GROUNDWATER CONSERVATION DISTRICTS

§293.23

Statutory Authority

These amendments are proposed under the authority granted to the commission in Texas Water Code (TWC), §5.012, which provides that the commission is the agency responsible for implementing the constitution and laws of the state relating to conservation of natural resources and protection of the environment; §5.013, which establishes the commission's authority over groundwater; §5.103 and §5.105, which establish the commission's general authority to adopt rules; and §36.3011, which establishes the commission's authority to, upon petition by an affected person, select a review panel to review activities regarding the management planning or rules of a groundwater conservation district.

These proposed amendments implement House Bill 2080, 89th Texas Legislature (2025).

§293.23. Petition Requesting Commission Inquiry.

(a) Purpose and applicability. This section provides procedures for commission review of a petition filed by an affected person requesting an inquiry into a groundwater conservation district's (GCD) activities regarding management planning or rules; commission appointment of the review panel; review panel actions; and

executive director actions under Texas Water Code (TWC), §36.3011. An affected person means, with respect to a management area:

- (1) an owner of land in the management area;
- (2) a GCD or subsidence district in or adjacent to the management area;
- (3) a regional water planning group with a water management strategy in the management area;
- (4) a person who holds or is applying for a permit from a district in the management area; or
- (5) a person with a legally defined interest in groundwater in the management area.

(b) Petition requesting commission inquiry. An affected person may file a petition with the commission to request an inquiry for any of the reasons in paragraphs (1) - (9) of this subsection:

- (1) a district fails to submit its management plan to the executive administrator of the Texas Water Development Board;

(2) a district fails to participate in the joint planning process under TWC, §36.108;

(3) a district fails to adopt rules;

(4) a district fails to adopt the applicable desired future conditions adopted by the management area at a joint meeting;

(5) a district fails to update its management plan before the second anniversary of the adoption of desired future conditions by the management area;

(6) a district fails to update its rules to implement the applicable desired future conditions before the first anniversary of the date the district updated its management plan with the adopted desired future conditions;

(7) the rules adopted by a district are not designed to achieve the adopted desired future conditions;

(8) the groundwater in the management area is not adequately protected by the rules adopted by a district; or

(9) the groundwater in the management area is not adequately protected due to the failure of a district to enforce substantial compliance with its rules.

(c) The petition must include supporting documentation for each of the individual reasons the affected person identifies in subsection (b) of this section demonstrating that a commission inquiry is necessary.

(d) The petition must include a certified statement from the affected person that describes why the petitioner believes that a commission inquiry is necessary.

(e) The petitioner shall provide a copy of the filed petition to all GCDs within and adjacent to the GMA within five days of the date the petition was filed. Within 21 days of filing the petition, the petitioner shall file with the chief clerk of the commission an affidavit or other evidence, such as a return receipt for certified mail service, that a copy of the petition was mailed to each GCD within and adjacent to the petitioner's GMA.

(f) Any GCD that is within and adjacent to the GMA that is the subject matter of the petition may file a response to the validity of the specific claims raised in the petition. The responding entity shall file its response with the chief clerk of the commission within 35 days of the date that the petition is filed, and shall also on the same day serve the petitioner, the executive director, the public interest counsel, and any other GCD in and adjacent to the GMA. The chief clerk shall accept a response that is filed after the deadline but shall not process the late documents. The chief clerk shall place the late documents in the file for the petition.

(g) Commission review of petition. The commission shall review the petition and any timely filed responses, no sooner than 35 days, but not later than 90 days after the date the petition was filed. The commission may dismiss the petition if it finds that the evidence required by subsections (c) and (d) of this section is not sufficient to show that the items contained in subsection (b)(1) - (9) of this section exist. If the commission does not dismiss the petition, it shall appoint a review panel to prepare a written report. A review panel established under this section is an advisory body to the commission and not a governmental body under Chapter 551 or 552, Government Code.

(1) The review panel shall consist of five members.

(A) The commission shall appoint one of the members to serve as the chairman of the review panel. The chairman shall schedule and preside over the proceedings and meetings of the panel.

(B) A director or general manager of a district that is not an affected person as defined by subsection (a) of this section and is not the subject of the petition may be appointed to the review panel.

(C) The commission may not appoint more than two members of the review panel from any one district.

(2) The commission shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary ~~must~~[may] be an employee of the commission. The recording secretary shall record and document the proceedings of the review panel. The records and documents of the recording secretary of the proceedings of the review panel must be provided to the executive director and are public information under Chapter 552, Texas Government Code.

(3) The commission may direct the review panel to conduct public hearings at a location in the groundwater management area to take evidence on the petition. The executive director shall provide notice of any public meeting or public hearing the review panel is directed to conduct not later than the seventh day before the date of a public meeting or public hearing. The executive director shall provide notice by:

(A) Posting notice on the commission's Internet website; and

(B) Delivering notice by regular mail to:

(i) the district that is the subject of the petition;

(ii) the petitioner; and

(iii) the county clerk of each county in the district that is the subject of the petition.

(4) In accordance with TWC, §36.3011, the review panel shall review the petition and any evidence relevant to the petition and consider and adopt a report to the commission.

(5) The commission shall reimburse a member appointed to the review panel for actual expenses incurred while engaging in activities on behalf of the review panel.

(A) To be eligible for reimbursement, a review panel member must file with the executive director a signed verified statement which shall include any relevant receipts describing the expenses incurred.

(B) A member appointed to the review panel is not entitled to a fee of office or other compensation for serving on the review panel.

(6) The commission or the review panel may submit a written request to the executive administrator of the Texas Water Development Board for assistance on a technical issue related to the petition. A deadline under subsections (g), (h), and (i) of this section is extended by 120 days if a request for technical assistance is submitted to the executive administrator during the review phase under that subsection.

(7) On request from a member of the review panel, the office of public interest counsel of the commission shall provide legal advice and assistance to the review panel. The office of public interest counsel:

(A) may not participate as a party in an inquiry under this section;
and

(B) has no duty or responsibility to represent the public interest or otherwise in an inquiry except as provided by this subsection.

(8) Paragraphs (6) and (7) of this subsection do not prohibit a member of the review panel from using the member's own technical consultant or legal counsel.

(h) Review panel report. The review panel's report must be submitted to the executive director no later than 120 days after the review panel was appointed by the commission. The review panel's report shall include:

(1) if a public hearing is conducted, a summary of evidence taken on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take under TWC, §36.303 and §293.22(e) of this title (relating to

Noncompliance Review and Commission Action) and the reasons it finds those commission actions appropriate; and

(3) any other information the panel considers appropriate for commission consideration.

(i) Commission action on review panel report. The executive director or the commission shall take action to implement any or all of the review panel's recommendations if a cause contained in subsection (b)(1) - (9) of this section applies. The executive director shall, no later than 45 days after the date the review panel report was received, recommend to the commission or initiate any action considered necessary under TWC, §36.303 and §293.22(b) - (h) of this title.