

## IV. Policymaking Structure

### A. Complete the following chart providing information on your policymaking body members.

**Exhibit 4: Policymaking Body**

Member Name	Term / Appointment Dates / Appointed by	Qualifications	City
Commissioner Jon Niermann – Chairman	Appointed October 1, 2015, by Governor Abbott.  Term expires August 31, 2021.	Fellow, American College of Environmental Lawyers  Former Chief, Environmental Protection Division, Texas Office of the Attorney General  Former environmental attorney at Baker Botts, L.L.P.  J.D., University of Oregon  MBA, University of Oregon  B.A., University of California at Santa Barbara	Austin
Commissioner Emily Lindley	Appointed August 20, 2018, by Governor Abbott.  Term expires August 31, 2023.	Former Chief of Staff for EPA Region 6  Over ten years of service in various roles at TCEQ  B.A., Baylor University	Bastrop
Commissioner Bobby Janecka	Appointed September 16, 2019, by Governor Abbott.  Term expires August 31, 2025.	Former advisor to Governor Greg Abbott covering general government agencies and civil jurisprudence issues  Former Section Manager in Radioactive Materials Division of TCEQ  Master of International Affairs, Texas A&M Bush School of Government & Public Service  B.A., University of Texas at Dallas	Austin

### B. Describe the primary role and responsibilities of your policymaking body.

The governor appoints three full-time commissioners to establish overall agency direction and policy and to make final determinations on contested permitting and enforcement matters. Consistent with the agency's philosophy, the commissioners:

- base decisions on the law, common sense, good science, and fiscal responsibility;
- ensure regulations are necessary, effective, and current;
- apply regulations clearly and consistently;
- ensure consistent, just, and timely enforcement of environmental laws, providing flexibility when doing so will achieve compliance with environmental laws; and
- hire, develop, and retain a high-quality, diverse workforce.

**C. How is the chair selected?**

The chair is selected by the governor, as set forth in Texas Water Code (TWC) Section 5.058.

**D. List any special circumstances or unique features about your policymaking body or its responsibilities.**

The commission has jurisdiction over a variety of issues affecting air, water, and waste. The commissioners are the ultimate decision makers on the agency's policy direction and contested matters requiring resolution. Because of the breadth of the subjects that the commission regulates, a commissioner's working knowledge of matters within the agency's jurisdiction is similarly extensive. Furthermore, because the agency administers many federal environmental permitting programs, commissioners must meet strict standards prohibiting conflicts-of-interest.

TWC Chapter 5, Subchapter C contains the specific criteria that a person must meet for appointment as a commissioner.

Because the commission is a three-person body, the Open Meetings Act uniquely affects the commissioners' ability to communicate with one another outside of an open meeting. Also, provisions in the Texas Government Code prohibiting *ex parte* communications can limit information the executive director may share with a commissioner during an emergency, when the emergency could be the subject of future administrative enforcement.

Chairman Niermann serves as:

- Agency representative on the Environmental Council of the States (ECOS). The purpose of ECOS is to improve the capability of state environmental agencies and their leaders to protect and improve human health and the environment of the United States of America.
- Governor's appointee to the Western States Water Council (WSWC). The purposes of WSWC are: (1) to accomplish effective cooperation among western states in the conservation, development, and management of water resources; (2) to maintain vital state prerogatives, while identifying ways to accommodate legitimate federal interests; (3) to provide a forum for the exchange of views, perspectives, and experiences among member states; and (4) to provide analysis of federal and state developments in order to assist member states in evaluating impacts of federal laws and programs and the effectiveness of state laws and policies.
- Governor's appointee to the Good Neighbor Environmental Board (GNEB). The GNEB is an independent federal advisory committee. Its mission is to advise the President and Congress of the United States on good neighbor practices along the U.S. border with Mexico. Its recommendations are focused on environmental infrastructure needs within the U.S. states contiguous to Mexico.

Commissioner Lindley serves as:

- The Governor's appointee to the Environmental Flows Advisory Group. The Advisory Group provides oversight of the environmental flows process. The Advisory Group conducts public hearings and studies the public policy implications of balancing human and environmental needs for water and any other issues that the Advisory Group determines have importance and relevance to the protection of environmental flows.

Commissioner Janecka serves as:

- Governor's appointed State Liaison Officer (SLO) with U.S. Nuclear Regulatory Commission (NRC). The SLO Program was established in 1976 in response to recommendations from the National Governors Association and other organizations to improve cooperation between the NRC and the States. The NRC relies on SLOs to act as the primary communication channel between the States and the NRC. The SLO serves as the key person in the State to keep the governor informed on issues under the NRC's jurisdiction.
- A liaison on border issues, working closely with international stakeholders on environmental issues affecting the U.S.- Mexico border region. This includes actively engaging the Joint Advisory Committee, a collection of stakeholders including EPA, TCEQ, and a variety of Mexican and local governments; the U.S. EPA through their Border 2020 and Border 2025 framework; the International Boundary and Water Commission, which monitors compliance with the 1944 water treaty between Mexico and the U.S. relating to the Colorado River, the Tijuana River, and the Rio Grande; and the North American Development Bank, supporting a wide variety of international development projects, including the establishment of a binational trust fund to finance cross-border air monitoring.

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2019? In FY 2020? Explain if the policymaking body met in-person or virtually during this time.**

In general, the commission meets every two to three weeks in open session. On occasion, the commission may meet three times during a four-week period. During FY 2019, the commission met in an Agenda meeting 21 times and in Work Session twice. All meetings in FY 2019 were in-person. During FY 2020, the commission met in Agenda 22 times and in Work Session twice. In FY 2020, 11 Agendas were in-person, and 11 were virtual. The FY 2020 Work Sessions were both in-person.

**F. Please list or discuss all the training the members of the agency's policymaking body receive. How often do members receive this training?**

The nature and content of the required commissioner training is set forth in TWC Section 5.0535. This broad spectrum of subject-matter training is provided to each newly appointed commissioner by knowledgeable staff from various programs across the agency. In addition to oral training, detailed written materials on all aspects of commission operations are developed and provided to each newly appointed commissioner. Each commissioner also completes training on ethics and on statute-specific responsibilities and procedures, including the Open Meetings Act, the Public Information Act, the Administrative Procedures Act, and cyber-security. Commissioners regularly receive refresher training on the Open Meetings Act, the Public Information Act, and the Administrative Procedures Act, as issues regarding their application arise. Commissioners complete cyber-security training annually.

**G. What information is regularly presented to your policymaking body to keep them informed about the agency's operations and performance?**

The executive director provides information to the commissioners, both formally and informally, on a wide variety of matters pertaining to agency performance. Such matters include reports on enforcement efforts and penalty/fee collections, legislative implementation efforts, staffing and personnel information, and performance and operational requirements mandated under state or federal law. The commission considers and approves the agency's annual operating budget. The commission also reviews the Office of

Public Interest Council's annual report on performance measures and budget needs and approves agency audit plans developed by the chief auditor. Other agency operating processes and protocols are brought before the commission for approval within varying contexts, including rule promulgations.

**H. How does your policymaking body obtain input from the public regarding issues under the agency's jurisdiction? How is this input incorporated into the operations of your agency?**

The commission receives input from the public through advisory committees, work groups, and task forces; stakeholder groups; rule petitions; notice and comment periods for rulemakings and applications for permits and other authorizations; the contested-case hearing process for permits and other authorizations; motions to overturn executive director actions; open commission meetings; and public meetings. The commission considers this input when considering rules, permits, and other authorizations issued by the agency.

**I. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. See Exhibit 5 Example. For advisory committees, please note the date of creation for the committee, as well as the abolishment date as required by Texas Government Code, Section 2110.008.**

**In addition, please attach a copy of any reports filed by your agency under Texas Government Code, Section 2110.007 regarding an assessment of your advisory committees as Attachment 28.**

**Exhibit 5: Subcommittees and Advisory Committees**

Name of Subcommittee or Advisory Committee	Size / Composition / How are Members Appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Brazos Watermaster Advisory Committee	The advisory committee must include between nine and fifteen members (currently thirteen) who are water rights holders or representatives of water rights holders in the water division of the Brazos Watermaster.	The watermaster committee advises on the program's annual operating budget, makes recommendations about water rights administration and distribution activities, and performs other operations-related duties requested by the executive director or water rights holders.	TWC Section 11.4531.	Creation: March 10, 2015  Abolishment: Until watermaster removed.

Name of Subcommittee or Advisory Committee	Size / Composition / How are Members Appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Compliance Advisory Panel	Seven members: two who are not owners or representatives of owners of small business stationary sources, appointed by the governor; four members who are owners or representatives of owners of small business stationary sources, two appointed by the lieutenant governor and two appointed by the speaker of the Texas House; and one member appointed by the TCEQ chairman to represent the commission.	The panel advises on the effectiveness of the small business compliance assistance program (SBCA) and the incidence and severity of enforcement; reports to EPA regarding the SBCA's effectiveness; reviews information that the SBCA provides to small businesses to assure it is understandable to nonexperts; and distributes opinions, reports, and information developed by the panel.	42 United States Code (USC) Section 7661f; TWC Section 5.135(c).	Creation: September 1, 1991  Abolishment: None, required by federal law. 42 USC Section 7661f.
Concho River Watermaster Advisory Committee	The committee includes six members: one representing the City of Paint Rock and one representing each of the following stream segments or tributaries of the Concho River: Spring Creek, Dove Creek, South Concho, Middle Concho, and main stem of the Concho below Certificate of Adjudication No. 14-1337 (River Order No. 5460010000); six members selected from a list of candidates submitted by the City of San Angelo; and one member selected at the executive director's discretion. Members are selected by the executive director.	The watermaster committee advises on the program's annual operating budget, makes recommendations about water rights administration and distribution activities, and performs other operations-related duties requested by the executive director or water rights holders.	TWC Section 11.557.	Creation: September 1, 2005  Abolishment: Until watermaster removed.

Name of Subcommittee or Advisory Committee	Size / Composition / How are Members Appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Dry Cleaner Remediation Program Advisory Committee	The committee includes five members composed of three representatives of the dry-cleaning industry, one public representative of urban areas, and one public representative of rural areas. Members are appointed by the executive director.	The advisory committee: reviews and comments on the methodology used by the commission to rank dry cleaner remediation sites under THSC Sections 374.004 and 374.154; reviews and comments on the report the commission prepares each biennium under THSC Section 374.056 (related to the status and use of the fund and the status of sites undergoing cleanup); and assists in the ongoing development of rules to implement, administer, and enforce THSC Chapter 374.	THSC Section 374.004.	Creation: September 1, 2003 Abolishment: September 1, 2041
Environmental Flows Advisory Group	The advisory group is composed of three members appointed by the governor; three members of the Texas Senate, appointed by the lieutenant governor; and three members of the Texas House appointed by the speaker of the Texas House. One must be a member of the commission; one must be a member of the Texas Water Development Board; and one must be a member of the Texas Parks and Wildlife Commission.	The advisory group provides oversight of the environmental flows process. The advisory group conducts public hearings and studies the public policy implications of balancing human and environmental needs for water and any other issues that the advisory group determines have importance and relevance to the protection of environmental flows.	TWC Section 11.0236.	Creation: September 1, 2007 Abolishment: The date that environmental flow standards are adopted by the commission.
Galveston Bay Council	The council is composed of forty-one members representing: federal agencies, state agencies, regional and local governments, environmental and citizen groups, industry and the business sector, and research and academia. The commission appoints members.	The members of the Galveston Bay Council are appointed by and advise TCEQ on implementing the Galveston Bay Plan to protect and restore the bay.	Commission resolution, 30 TAC Chapter 5.	Creation: November 21, 1995 Abolishment: November 15, 2035, unless renewed.

Name of Subcommittee or Advisory Committee	Size / Composition / How are Members Appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Irrigator Advisory Council	Nine members appointed by the commissioners at the recommendation of the executive director. Three members are representatives of the public, six members are licensed irrigators experienced and familiar with the irrigation industry.	The council advises the commission on matters relating to landscape irrigation.	TOC Sections 1903.151-.159; 30 TAC Section 344.80.	Creation: September 1, 1991 Abolishment: February 1, 2027, unless renewed.
Municipal Solid Waste (MSW) Management and Resource Recovery Advisory Council	Eighteen members that represent local governments, industry, solid waste professionals, environmental groups, and the public.  Members appointed by the commission.	The council reviews and evaluates the effect of state policies on MSW management, makes recommendations to the commissioners on MSW matters, recommends legislation to encourage efficient management of waste, and recommends special studies and projects to further the effectiveness of MSW management.	THSC Sections 363.041-363.046; Commission resolution; 30 TAC Chapter 5.	Creation: September 1, 1989 Abolishment: August 31, 2025, unless renewed.
Rio Grande Watermaster Advisory Committee	The advisory committee must include between nine and fifteen members (currently fourteen) who are water rights holders or representatives of water rights holders in the water division of the Rio Grande Watermaster Program. Members are selected by the executive director.	The watermaster committee advises on the program's annual operating budget, makes recommendations about water rights administration and distribution activities, and performs other operations-related duties requested by the executive director or water rights holders.	TWC Section 11.3261.	Creation: September 1, 1997 Abolishment: Until watermaster removed.
South Texas Watermaster Advisory Committee	The advisory committee must include between nine and fifteen members (currently fourteen) who are water rights holders or representatives of water rights holders in the water division of the South Texas Watermaster Program. Members are selected by the executive director.	The watermaster committee advises on the program's annual operating budget, makes recommendations about water rights administration and distribution activities, and performs other operations-related duties requested by the executive director or water rights holders.	TWC Sections 11.556 and 11.3261.	Creation: September 1, 1997 Abolishment: Until watermaster removed.

Name of Subcommittee or Advisory Committee	Size / Composition / How are Members Appointed?	Purpose / Duties	Legal Basis for Committee (statute or rule citation)	Creation and Abolishment Dates
Tax Relief for Pollution Control Property Advisory Committee	The committee includes thirteen members from industry, appraisal districts, taxing units, school district or junior college district in which a tax exemption under Texas Tax Code (TTC) Section 11.31 has been granted, environmental group representatives, and other members not representatives of these groups with substantial technical expertise in pollution control technology and environmental engineering. Members are appointed by the commission.	Advises the commission regarding the implementation of TTC Section 11.31 regarding pollution control property.	TTC Section 11.31(n).	Creation: September 1, 2009  Abolishment: None; Texas Government Code Chapter 2110 does not apply to the size, composition, or duration of this committee.
Water Utility Operating Licensing Advisory Committee	The committee includes thirteen members appointed by the commission. The committee membership represents various geographic areas of the state, ethnicity, businesses, governments, associations, and industries.	The advisory committee advises the commission on matters related to training and licensing of water and wastewater operators.	Commission resolution; 30 TAC Chapter 5.	Creation: 1987, name changed March 23, 1994.  Abolishment Date: August 30, 2024, unless renewed.