

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** January 9, 2026

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

From: Richard C. Chism, Director *RCC*
Office of Air

Docket No.: 2023-1057-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 17, Tax Relief for Property Used for Environmental Protection
Chapter 18, Voter-Approval Tax Relief for Pollution Control Requirements
Tax Relief (Prop 2) and Voter-Approval Tax Rate Relief Requirements Updates
Rule Project No. 2023-123-017-AI

Background and reason(s) for the rulemaking:

The Texas Commission on Environmental Quality (commission or TCEQ) is required at least once every three years to review and update, as necessary, the items on the Expedited Review List (ERL) per Texas Tax Code (TTC), §11.31(l) and §26.045(g) and the items on the Tier I Tables in 30 Texas Administrative Code (TAC) §17.14(a), per §17.14(b), and §18.25(a), per §18.25(b). This rulemaking fulfills the requirements for the commission to review and update the property included on the ERL and Tier I Table in Chapter 17. The rulemaking also adds certain property consistent with advice from the Tax Relief for Pollution Control Property Advisory Committee (committee) dated December 1, 2022, regarding updates to the Tier I Table in 30 TAC Chapter 17 based on the committee's review. The rulemaking also moves the ERL to a new section, §17.18, in 30 TAC Chapter 17.

The rulemaking also implements Section 44 of Senate Bill (SB) 2 of the 86th Texas Legislature, Regular Session, 2019, to correct the title of Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

The rulemaking amends the Tier I Tables consistent with the committee advice to add certain components of amine treating systems as an item to the Tier I Tables in 30 TAC Chapters 17 and 18. The rulemaking implements Section 44 of SB 2 of the 86th Texas Legislature, Regular Session, 2019, to correct the title of 30 TAC Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements. Other changes modernize various aspects of the program; move the ERL to a new section, §17.18, in 30 TAC Chapter 17; remove existing requirements that the commission review and update the Tier I Table every three years; and other revisions to provide for an overall clarification, clean-up, and consistency in the rule language in both chapters. Finally, the rulemaking fulfills the commission's statutory and regulatory requirements to review and update the property included on 30 TAC Chapters 17 and 18 ERL and Tier I Tables.

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

The rulemaking is not required by a federal regulation or federal program. TTC, §11.31(l) and §26.045(g) require the commission to review and update items listed in TTC, §11.31(k) and §26.045(f), which are codified as the ERL in existing 30 TAC §17.17(b) and §18.26.

This rulemaking corrects an error in a previous rulemaking to change the title of 30 TAC Chapter 18 to "Voter-Approval Tax Rate Relief for Pollution Control Requirements."

Re: Docket No. 2023-1057-RUL

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

The rules are amended to allow the executive director to specify the form for submitting applications and making conforming changes to accommodate electronic submittal and receipt of applications and appeal-related documents. The rules are further updated related to payment of application fees to reflect the acceptance of fees using an electronic payment system.

The ERL is being moved from 30 TAC §17.17 (Partial Determinations) to a new section 30 TAC §17.18 (Expedited Review List) to help improve clarity for applicants and staff. A statement is also added to help clarify that applications that contain an ERL item must be submitted as the appropriate Tier level described in 30 TAC §17.2 (Definitions).

The rules are also amended to remove existing requirements that the commission review and update the Tier I Tables every three years. This review is not required by statute and does not preclude the commission from reviewing the tables or the committee from providing advice regarding the Tier I Tables at any time. The requirements to review the ERLs have not changed.

Other clarifying changes are made to existing items on the Tier I Tables. In addition, other non-substantive revisions provide for an overall clean-up of the rule language, including correcting incorrect references, removing obsolete language, using consistent terminology, and updating the rule language to current *Texas Register* and TCEQ style and format requirements.

Statutory authority:

The new rule and amended sections are adopted under Texas Water Code (TWC), §5.102 and §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the laws of the state. The rules are also adopted under TTC, §11.31, which authorizes the commission to adopt rules to implement the Pollution Control Property Tax Exemption, and TTC, §26.045, which authorizes the commission to adopt rules to implement the Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Effect on the:

A.) Regulated community:

The rulemaking will affect industries or political subdivisions that own property and choose to apply for use determinations for property added to the Tier I Table using a Tier I application. The rulemaking is expected to improve clarity for those who submit applications under 30 TAC Chapters 17 and 18.

Should the executive director require electronic submittal of applications, some applicants may be initially hesitant to submit applications, and they may have questions on how to do so as they complete the initial sign-up process for, and learn to use, the electronic submittal system. This is expected to affect a minority of applicants. In 2024, 96% of applications were submitted electronically.

B.) Public:

The rulemaking could affect appraisal districts that grant and determine the value of tax exemptions.

C.) Agency programs:

The rulemaking is expected to provide clearer directions to program staff and require revision of program documents. No effect on other agency programs is expected.

Re: Docket No. 2023-1057-RUL

Stakeholder meetings:

No.

Public Involvement Plan

Yes.

Alternative Language Requirements

Yes. Spanish.

Public comment:

The comment period opened on September 5, 2025, and closed on October 6, 2025. The commission offered a virtual public hearing on September 29, 2025. TCEQ staff were present and ready to open the hearing for public comment on this project, and Spanish language interpreters were available at the hearing; however, none of the attendees signed up to make comments on the record. Therefore, the public hearing was not formally opened for comment, and a transcript was not prepared.

During the comment period, the commission received one comment from the Tax Relief for Pollution Control Property Advisory Committee. The comment was supportive of the proposed revisions.

Significant changes from proposal:

None.

Potential controversial concerns and legislative interest:

None.

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

This rulemaking will allow the executive director to require that applications be submitted electronically.

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

Choosing not to update the Tier I Tables and implementing the committee's advice would not affect the eligibility of property for positive use determinations. Such use determinations could be made using existing rules for the property the committee has advised to be added to the Tier I Table. However, not making these changes could be viewed as inconsistent with the current requirements in 30 TAC §17.14(b) and §18.25(b) requiring updates to the respective Tier I Tables if there is compelling evidence to support the conclusion that the item provides pollution control benefits.

Not making other recommended updates could cause confusion among applicants about how to submit applications and the content of applications, and will leave outdated and inconsistent language in 30 TAC Chapters 17 and 18.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: September 5, 2025

Anticipated *Texas Register* adoption publication date: February 13, 2026

Anticipated effective date: February 19, 2026

Six-month *Texas Register* filing deadline: March 5, 2026

Commissioners
Page 4
January 9, 2026

Re: Docket No. 2023-1057-RUL

Agency contacts:

Elizabeth Sartain, Rule Project Manager, Air Quality Division, (512) 239-3933
Amanda Kraynok, Staff Attorney, Environmental Law Division, (512) 239-0633
Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:

SB 2, Section 44
Advice for Expedited Review List and Tier I Table, letter dated December 1, 2022

cc: Chief Clerk, 2 copies
Executive Director's Office
Patrick Lopez
Jessie Powell
Farrah Court
Office of General Counsel
Elizabeth Sartain
Amanda Kraynok
Gwen Ricco