

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** August 1, 2025

**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 Proposed Rulemaking  
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 proposed rulemaking would fulfill the requirements for the commission to review and update the property included on the ERL and Tier I Table in Chapter 17. The rulemaking would also add 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 proposed rulemaking also would move the ERL to a proposed new section, §17.18, in 30 TAC Chapter 17.

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

### **Scope of the rulemaking:**

The proposed rulemaking would amend the Tier I Tables in 30 TAC Chapters 17 and 18 to address the committee's December 1, 2022, advice and recommendations after reviewing the Tier I Table and the ERL.

The proposed rulemaking would implement Section 44 of SB 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of 30 TAC Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Other changes would modernize various aspects of the program; clarify that the executive director specifies the form of application submittal; move the ERL in 30 TAC Chapter 17 to a new section; and remove existing requirements that the commission review and update the Tier I Table every three years.

### **A.) Summary of what the rulemaking would do:**

The proposed rulemaking would amend 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 proposed rulemaking would implement Section 44 of SB 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of 30 TAC Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements. Other changes would modernize various aspects of the program; move the ERL to a new section, §17.18, in 30

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TAC Chapter 17; remove existing requirements that the commission review and update the Tier I Table every three years; and other changes to provide for an overall clarification, clean-up, and consistency in the rule language in both chapters. Finally, the proposed rulemaking would fulfill 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 proposed rulemaking would correct 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."

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

Staff recommends amending the rules to allow the executive director to specify the form of submittal of applications and appeals and make conforming changes to accommodate electronic submittal and receipt of applications and appeal-related documents. Staff further recommends updating the rules related to payment of application fees to reflect the acceptance of fees using an electronic payment system.

Staff recommends moving the ERL from 30 TAC §17.17 (Partial Determinations) to a proposed new section 30 TAC §17.18 (Expedited Review List) to help improve clarity for applicants and staff. In addition, staff recommends the addition of a statement 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).

Staff also recommends amending the rules 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 would 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 would not change.

Staff recommends other clarifying changes to existing items on the Tier I Tables. In addition, staff recommends other non-substantive revisions to 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 amended sections are proposed 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 amended sections are also proposed 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 proposed rulemaking would 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

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application. The proposed 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 direction to program staff and require revision of program documents. No effect on other agency programs is expected.

**Stakeholder meetings:**

The commission did not hold any stakeholder meetings related to this rulemaking; however, if the proposed rulemaking is approved by the commission for public comment and public hearing, then a formal public comment period would be opened, and a public hearing would be offered. The committee discussed their advice related to the triennial review of the Tier I Table and ERL at five meetings in 2021 and 2022.

**Public Involvement Plan**

Yes

**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?**

This rulemaking would allow for the executive director to require applications to 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 implement 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 a violation of 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 content of applications and would leave outdated and inconsistent language in 30 TAC Chapters 17 and 18.

**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** August 20, 2025

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**Anticipated *Texas Register* publication date:** September 5, 2025  
**Anticipated public hearing date:** September 29, 2025  
**Anticipated public comment period:** September 5, 2025 – October 6, 2025  
**Anticipated adoption date:** February 4, 2026

**Agency contacts:**

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**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  
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Jessie Powell  
Krista Kyle  
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