

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** June 20, 2025

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

From: Craig Pritzlaff, Director
Office of Compliance and Enforcement

Docket No.: 2025-0520-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 60, Compliance History
Compliance History Rule Revisions
Rule Project No. 2024-043-060-CE

Background and reason(s) for the rulemaking:

Rulemaking is necessary to implement aspects of Senate Bill (SB) 1397 relating to the continuation and functions of the TCEQ ("Sunset Bill") which amended Texas Water Code (TWC) §5.754. SB 1397 passed by the 88th Legislature, 2023, was authored by Senators Charles Schwertner, Nathan Johnson, Angela Paxton, Charles Perry, and Drew Springer, and sponsored by Representative Keith Bell. The bill took effect September 1, 2023.

Scope of the rulemaking:

The executive director proposes revising Sections 60.1 and 60.2 of 30 Texas Administrative Code (TAC) Chapter 60.

A.) Summary of what the rulemaking would do:

This proposed rulemaking would revise 30 TAC Chapter 60 relating to Compliance History. The proposed rulemaking implements the changes made to TWC §5.754 which require the consideration of moderate and minor violations, in addition to the previously considered major violations, when determining repeat violator status. This proposed rulemaking also addresses legislative direction for TCEQ to review and update the compliance history rating formula to ensure it adequately allows for comparing the compliance performance of facilities of similar complexity and to regularly update an entity's compliance history rating throughout the year.

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

There are no new federal regulations related to this rulemaking. SB 1397 amends TWC §5.754.

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

Staff may make additional administrative changes as necessary to ensure consistency throughout 30 TAC Chapter 60.

Statutory authority:

The rulemaking is proposed under TWC §5.753, concerning Standards for Evaluating and Using Compliance History; and TWC §5.754, concerning Classification and Use of Compliance History, both of which authorize rulemaking to establish compliance history standards. Additional authority exists under TWC §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; and TWC §5.103, concerning Rules, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the TWC and other laws of this state.

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Effect on the:

A.) Regulated community:

The proposed rules do not affect current regulatory requirements for businesses or individuals. Regulated entities classified as repeat violators are subject to a 25% administrative penalty enhancement, and changes to how repeat violators are determined could result in increased administrative penalties for some entities. Increasing the frequency that compliance history information is updated will allow regulated entities to review their ratings and file appeals on a more frequent basis.

B.) Public:

The public benefit anticipated from the changes to the proposed rules will be the availability of more current compliance history information as components are updated more than once per year. No fiscal implications are anticipated.

C.) Agency programs:

The agency will be required to modify its compliance history data systems and reporting tools to accommodate changes to the compliance history program resulting from this rulemaking. The agency website will need to be updated to reflect changes, and the Advanced Review of Compliance History website will require changes.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking, however the public was able to provide input and comments during committee hearings related to SB 1397 during the 88th Legislative Session. A rule public hearing will be held during the comment period in Austin.

Public Involvement Plan

A public involvement plan is required.

Alternative Language Requirements

There are alternative language requirements for this rulemaking. The notice for this statewide rulemaking will be published in Spanish.

Potential controversial concerns and legislative interest:

It is expected that there will be interest in the new compliance history classification groups and revised repeat violator criteria.

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

This rulemaking would not affect current policy or require the development of new policy.

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

Rulemaking is required by SB 1397. If this rulemaking doesn't go forward, TCEQ would not be compliant with the state statute.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: July 9, 2025

Anticipated *Texas Register* publication date: July 25, 2025

Anticipated public hearing date: August 18, 2025

Anticipated public comment period: July 25, 2025 – August 25, 2025

Anticipated adoption date: November 19, 2025

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Attachments:

SB 1397

cc: Chief Clerk, 2 copies
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