

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 29, 2026

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

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

Kim Nygren, Assistant Director
Office of Water

Docket No.: 2025-1420-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 293, Water Districts
HB 2080: Update to 30 TAC Chapter 293 Relating to the Petition Requesting
Commission Inquiry of a Groundwater Conservation District
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. HB 2080 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, the legislation requires an employee of TCEQ to act as a recording secretary of a review panel and clarifies that the review panel is an advisory board and not a governmental body. It also requires TCEQ to reimburse members appointed to a review panel for actual expenses incurred. The statute 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 extends 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 specifies that members of the review panel are not prohibited from using their own technical consultants or legal counsel.

The legislation 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 will do:

The adopted amendments to 30 TAC §293.23, Petition Requesting Commission Inquiry, would update subsection (g) to implement HB 2080. Specifically, the amendments clarify that the review panel is an advisory board and not a governmental body. The rulemaking requires that the recording secretary be a TCEQ employee, specifies that records maintained by the recording secretary must be provided to the ED, and clarifies that such records are public documents. The rulemaking includes notice requirements for meetings or hearings held by the review panel and requires TCEQ to reimburse review panel members for actual expenses incurred while engaging in

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activities on behalf of the panel. The rulemaking adoption extends the timeframe for the petition process by 120 days if the review panel seeks technical assistance from TWDB. The rulemaking also specifies that the review panel may request legal assistance from OPIC. Lastly, the adoption amendment clarifies 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 will 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. Reimbursable expenses will be limited to those associated with meals, travel, and lodging. This document would be provided to panel members upon assignment and is not referenced within the adoption amendment.

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 will be eligible to receive reimbursement for actual expenses incurred resulting from participation. They will also have access to technical assistance as well as legal advice and assistance.

B.) Public:

This rulemaking will 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 will 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. The commission held a public hearing on February 24, 2026. The public hearing was held both virtually and in person at the TCEQ in Austin.

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Public Involvement Plan

In addition to the statutory public notice requirements, TCEQ developed a public involvement plan and provided a plain language summary.

Alternative Language Requirements

Yes, Spanish.

Public comment:

The comment period opened on January 30, 2026, and closed on March 3, 2026. The commission received comments from Warren Bernhardt, Brian Sledge, and Prairielands Groundwater Conservation District. All commentors were in support of the rulemaking and none were against. One commentor asked that the rulemaking provide clear guidance to petitioners and GCDs. No changes were made in response to the comment because the request is outside the scope of the rulemaking, which was to implement HB 2080 related to review panels created in response to a petition for inquiry.

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?

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 adoption rulemaking schedule:

Texas Register proposal publication date: January 30, 2026

Anticipated *Texas Register* adoption publication date: July 3, 2026

Anticipated effective date: July 9, 2026

Anticipated six-month *Texas Register* filing deadline: July 30, 2026

Agency contacts:

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Attachments:

House Bill 2080

cc: Chief Clerk, 2 copies
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