

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



A RESOLUTION Delegating to the Executive Director the Authority to Certify Certain Water or Wastewater Service Providers as Providing Regional Water and/or Wastewater Service.
Docket No. 2015-1163-RES

WHEREAS, Subchapter H, Chapter 151, of the Texas Tax Code exempts from taxes contained therein equipment, services, or supplies used solely to construct or operate a water or wastewater system or component of a system sponsored by a provider certified by the Texas Commission on Environmental Quality ("Commission") as providing regional water or wastewater service; and

WHEREAS, the Texas Tax Code, Section 151.355(5) authorizes the Commission to certify certain entities as providing regional water or wastewater service for of eligibility for a tax exemption; and

WHEREAS, the Texas Tax Code, Section 151.355(5) was originally enacted in 2001 by SB 2, which limited certification to political subdivisions only, and SB 312, which did not limit certification to political subdivisions; and

WHEREAS, in 2002 the Commission adopted a Resolution Delegating to the Executive Director the Authority to Certify Certain Political Subdivisions as Providing Regional Water and/or Wastewater Service; and

WHEREAS, in 2003, HB 2424 reenacted and amended Texas Tax Code, Section 151.355(5) without the limitation of certification to political subdivisions; and

WHEREAS, the Texas Water Code, Section 5.102 provides the Commission the powers to perform any acts whether specifically authorized or implied by the Texas Water Code or any other law, necessary and convenient to the exercise of its jurisdiction and powers as provided by the Legislature of the State of Texas, including the determination of findings of fact; and

WHEREAS, the Commission will use the following criteria to determine whether a water or wastewater provider is a regional provider:

1. one owner and one large system serves several different communities or subdivisions or,
2. one owner and several isolated systems each provide service to one or more communities or subdivisions or,
3. several owners, each with individual systems operated through a centrally coordinated operating system or,
4. several owners, each with an isolated system, all served by a central wholesale provider; and

WHEREAS, the Texas Water Code, Section 5.122 provides the Commission the power to delegate to the Executive Director the Commission's authority to act on an application or other request to issue, renew, reopen, transfer, amend, extend, withdraw, revoke, terminate, or modify a permit, license, certificate, registration, or other authorization or approval if the conditions contained within the section are satisfied; and

WHEREAS, a substantial number of water or wastewater service providers may seek certification as providing regional water and/or wastewater service; and

WHEREAS, in order to streamline the certification of providers as providing regional water and/or wastewater service, the Commission has elected to delegate its authority to review, issue, approve and act on such certification requests as authorized by Texas Tax Code, Section 151.355(5) to the Executive Director in accordance with Tex. Water Code, Section 5.122;

NOW THEREFORE, BE IT RESOLVED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- 1) The Executive Director is delegated the Texas Commission on Environmental Quality's authority to review, issue, approve and act on such certification requests as authorized by Texas Tax Code, Section 151.355(5);
- 2) The Executive Director must act on such request within ninety days of receipt of the request effective upon issuance of this resolution; and
- 3) An entity may appeal the Executive Director's action by a motion to overturn according to the procedures set out in Texas Administrative Code, Chapter 30, Section 50.139.

Issued date: SEP 15 2015

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ENVIRONMENTAL QUALITY

Bryan W. Shaw 9-15-15
Bryan W. Shaw, Ph.D., P.E., Chairman