

**Guidance Document Regarding
Which Authorizations Require Compliance History
and How Implementation Dates Will Affect Agency Actions
Last Update: September 23, 2002**

Purpose:

The purpose of the document is to provide guidance to TCEQ staff, as well as to the regulated community, regarding which types of “permits” (or authorizations) require a compliance history under 30 TEX. ADMIN. CODE ch. 60 (Compliance History). The term “permit,” as it applies to ch. 60, is defined in TWC, §5.751, as licenses, certificates, registrations, approvals, permits by rule, standard permits, or other forms of authorization.

Additionally, this document is intended to provide guidance regarding how the implementation dates associated with the implementation of House Bill 2912, 77th Legislature, 2001, and resulting rulemaking affects agency actions.

Background:

House Bill 2912, 77th Legislature, 2001, §4.01, amended Texas Water Code (TWC), Chapter 5, Texas Natural Resource Conservation Commission, by adding Subchapter Q, Performance-Based Regulation. New Subchapter Q of TWC, §5.753, Standard For Evaluating Compliance History, requires the commission to “develop a uniform standard for evaluating compliance history.” New 30 TAC Chapter 60 has been adopted to define the components of compliance history.

TWC, Subchapter Q, applies to programs under the jurisdiction of the commission under TWC, Chapters 26 and 27, and THSC, Chapters 361, 382, and 401. HB 2912, §4.01, as it creates new TWC, §5.754(e), specifies that the agency will utilize compliance history when making decisions relating to: the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit; enforcement; the use of announced investigations; and participation in innovative programs. New 30 TEX. ADMIN. CODE ch. 60 reflects the definition of “permit” in TWC, §5.751, which is very broad and covers many types of agency authorizations other than those referred to as “permits.” It also is different from the otherwise generally applicable definition of permit in 30 TEX. ADMIN. CODE § 3.2. (However, as specified in TWC, §5.751, the compliance history requirements of HB 2912 do not apply to occupational licensing programs under the jurisdiction of the commission.)

Compliance History Period:

The compliance history period includes the five years prior to the date the permit application is received by the executive director; the five-year period preceding the date of initiating an enforcement action with an initial enforcement settlement offer or the filing date of an Executive Director’s Preliminary Report (EDPR), whichever occurs first; for purposes of determining whether an announced investigation is appropriate, the five-year period preceding an investigation; or the five years prior to the date the application for participation in an innovative program is received by the executive director. The compliance history period may be extended beyond the date the application for the permit or participation in an innovative program is received by the executive director, up through completion of review of the application.

Authorizations:

In order to delineate which authorizations the compliance history rules apply to, the types of permits, licenses, certificates, registrations, approvals, permits by rule, and standard permits over which the

commission has jurisdiction have been categorized into two groups. The first group can be referred to as a “no decision” process. This term includes a situation in which a person informs the agency, as required by rule, that it is engaging in a certain regulated activity for which there is no specific approval required. The “no decision” process includes activities that are authorized by rule for which notification may or may not be required, but no agency approval is required for the site to be authorized.

Other types of permits can be referred to as a “decision” process. This group includes authorizations which require notification or application, an agency review, and site-specific agency approval or response.

Adopted new Chapter 60 will only be applied to those permits or other forms of authorization, including temporary authorizations, requiring the “decision” process. The language in the rule reflects that it refers to authorizations which require the agency to make a substantive review of and approval or disapproval of them, and defines “substantive review of an approval or disapproval” as an action by the agency to determine, prior to issuance of the requested authorization, and based on the notification or other submittal, whether the person making the notification has satisfied statutory or regulator criteria that are prerequisites to issuance of such authorization. The term “substantive review or response” does not include confirmation of receipt of a submittal.

Additionally, there are specific kinds of permit actions which do not require compliance histories to be compiled. Permit actions such as voluntary permit revocations; minor amendments and nonsubstantive corrections to permits; TPDES and underground injection control minor modifications; Class 1 solid waste modifications, except for changes in ownership; municipal solid waste Class I modifications, except for temporary authorizations and municipal solid waste Class I modifications requiring public notice; permit alterations; administrative revisions; and air quality new source review permit amendments which meet the criteria of §39.402(a)(1)-(3) and minor permit revisions under Chapter 122, do not substantially change the current authorizations, but add clarity, correct typographical errors, update contact information, or make other minor changes where the minor changes are equally protective of human health and the environment or are de minimis or insignificant. Therefore, the commission has determined that Chapter 60 is not applicable to these types of permit actions, unless a motion for reconsideration or a motion to overturn is filed under 30 TAC §50.39 or §50.139 with respect to one of the listed permit actions **and** the item is set for a commission agenda.

The pertinent parts of §60.1(a) are as follows:

§60.1 Compliance History.

(a) Applicability. The provisions of this chapter are applicable to all persons subject to the requirements of Texas Water Code (TWC), Chapters 26 and 27, and Texas Health and Safety Code (THSC), Chapters 361, 382, and 401.

(1) Specifically, the agency will utilize compliance history when making decisions regarding:

(A) the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit;

- (B) enforcement;
- (C) the use of announced investigations; and
- (D) participation in innovative programs.

(2) For purposes of this chapter, the term “permit” means licenses, certificates, registrations, approvals, permits by rule, standard permits, or other forms of authorization.

(3) With respect to authorizations, this chapter only applies to forms of authorization, including temporary authorizations, that require some level of notification to the agency, and which, after receipt by the agency, requires the agency to make a substantive review of and approval or disapproval of the authorization required in the notification or submittal. For the purposes of this rule, “substantive review of and approval or disapproval” means action by the agency to determine, prior to issuance of the requested authorization, and based on the notification or other submittal, whether the person making the notification has satisfied statutory or regulatory criteria that are prerequisites to issuance of such authorization. The term “substantive review or response” does not include confirmation of receipt of a submittal.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, this chapter does not apply to certain permit actions such as:

- (A) voluntary permit revocations;
- (B) minor amendments and nonsubstantive corrections to permits;
- (C) Texas pollutant discharge elimination system and underground injection control minor permit modifications;
- (D) Class 1 solid waste modifications, except for changes in ownership;
- (E) municipal solid waste Class I modifications, except for temporary authorizations and municipal solid waste Class I modifications requiring public notice;
- (F) permit alterations;
- (G) administrative revisions; and
- (H) air quality new source review permit amendments which meet the criteria of 30 TAC §39.402 of this title (relating to Applicability to Air Quality Permit Amendments) and minor permit revisions under 30 TAC Chapter 122 of this title (relating to Federal Operating Permits).

(5) Further, this chapter does not apply to occupational licensing programs under the jurisdiction of the commission.

...

(8) If a motion for reconsideration or a motion to overturn is filed under 30 TAC §50.39 or §50.139 of this title (relating to Motion for Reconsideration; and Motion to Overturn Executive Director's Decision) with respect to any of the actions listed in paragraph (4) of this subsection, and is set for commission agenda, a compliance history shall be prepared by the executive director and filed with the Office of the Chief Clerk no later than six days before the Motion is considered on the commission agenda.

Which Authorizations Require Compliance Histories:

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	101 -Subch H, Emission Credit Bank and Trade		This program involves the issuance of certificates certifying emission reductions that companies are claiming. There is a review of their calculations. Then when these certified reductions are used we acknowledge that transaction.		not a form of authorization
		Division 1	Emission Credit Certification	No	
		Division 1	Emission Credit Transfer/Use	No	
		Division 4	Discrete Emission Credit Certification	No	
		Division 4	Discrete Emission Credit Transfer/Use	No	
THSC 382	106 - NSR Permits by Rule (PBR) (aka standard exemptions)		Each PBR is a separate section in Chapter 106 and in each section all the requirements for that type of facilities are specified for that permit by rule. Generally, if they meet the requirements then they are permitted with no approval by the agency: 85 PBRs require no registration or site approval ...however many applicants voluntarily send in a PI-7 so they have a record that the agency was aware of their claim to a PBR . 23 PBRs require registrations using a specific form PI-7	No (where no written site approval is required)	“no decision”
THSC 382	106 - NSR Permits by Rule (PBR) (aka standard exemptions)		15 PBRs require PI-7 registration <u>and</u> a “site approval”	Yes	

No* - No, unless a motion for reconsideration or a motion to overturn is filed under 30 TEX. ADMIN. CODE § 50.39 or § 50.139 **and** the item is set for Commission agenda.

**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	116 New Source Review	116.110(a) (1)	New Permit (30 TAC §116.111)	Yes	
THSC 382	116 New Source Review	116.110(a) (2)(A) & 116.610- 611	Standard Permit (30 TAC Ch. 116, subch. F) Standard Permits with “site approval” (CBP & DG) All other Standard Permits	Yes No	“no decision”
THSC 382	116 New Source Review	116.110(a) (2)(B)	CAFO Standard Permit (30 TAC Chapter 321, Subchapter B)	No	“no decision”
THSC 382	116 New Source Review	116.110(a) (2)(C)	Composting Standard Permit (30 TAC Chapter 332)	No	“no decision”
THSC 382	116 New Source Review	116.110(a) (2)(D)	Landfills Standard Permit (30 TAC Chapter 330, Subchapter N)	No	“no decision”
THSC 382	116 New Source Review	116.110(d)	Change of Ownership	No	“no decision”
THSC 382	116 New Source Review	116.116(b)	Permit Amendments Amendments with PN required under §39.402 All other Amendments	Yes No	rule specifies exclusion
THSC 382	116 New Source Review	116.116(c)	Permit Alterations	No	specifically excluded

No* - No, unless a motion for reconsideration or a motion to overturn is filed under 30 TEX. ADMIN. CODE § 50.39 or § 50.139 **and** the item is set for Commission agenda.

**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	116 New Source Review	116.116(e)	Qualified Facility Changes	No	No decision process
THSC 382	116 New Source Review	116.119	De Minimis Facilities	No	No decision process
THSC 382	116 New Source Review	116.130(b)	Change of Location of a previously permitted facility	Yes	
THSC 382	116 New Source Review	116.130(b)	Relocation of a previously permitted facility	Yes	
THSC 382	116 New Source Review	116.150	New Nonattainment Permit	Yes	
THSC 382	116 New Source Review	116.150	Nonattainment Major Modification	Yes	
THSC 382	116 New Source Review	116.160	New PSD Permit	Yes	
THSC 382	116 New Source Review	116.160	PSD Major Modification	Yes	
THSC 382	116 New Source Review	116.170	Emission Reduction Credits	No	No decision process
THSC 382	116 New Source Review	116.180	Major Source FCAA §112(g) HAP - New Facilities and Reconstruction of Existing Facilities	Yes	

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	116 New Source Review	116.310	Permit Renewals (All Types)	Yes	
THSC 382	116 New Source Review	116.710	New Flexible Permits	Yes	
THSC 382	116 New Source Review	116.810	New Voluntary Emission Reduction Permits	Yes	
THSC 382	116 New Source Review	116.910	Electric Generating Facility Permits	Yes	
THSC 382	116 New Source Review	116.??? (not yet adopted)	New Existing Facility Permits (non-voluntary) - not Sm Bus	Yes	
THSC 382	116 New Source Review	116.??? (not yet adopted)	EGFP - Small Business Permits	Yes	
THSC 382	116 New Source Review	116.1010	Multiple Plant Facilities	Yes	
THSC 382	116 New Source Review	116.110	Change of ownership	No	no decision process
THSC 382	122 Federal Operating Permits	122.201	New Site Operating Permit (SOP)	Yes	
THSC 382	122 Federal Operating Permits	122.211	SOP Administrative Permit Revision	No	No approval process

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	122 Federal Operating Permits	122.215 & 122.218	SOP Minor Permit Revision	No	No approval process
THSC 382	122 Federal Operating Permits	122.219	SOP Significant Permit Revision	Yes	
THSC 382	122 Federal Operating Permits	122.222	SOP Operational Flexibility	No	Notice only No approval process
THSC 382	122 Federal Operating Permits	122.222(k)	SOP Off-Permit Changes	No	No approval process
THSC 382	122 Federal Operating Permits	122.231(c)	SOP Reopenings - (incorporate ch. 106 & 116 requirements)	No	No approval process
THSC 382	122 Federal Operating Permits	122.231(f)	SOP Reopenings - all other reasons	Yes	
THSC 382	122 Federal Operating Permits	122.241	SOP Renewal	Yes	
THSC 382	122 Federal Operating Permits	122.410	New Acid Rain Permit	Yes	
THSC 382	122 Federal Operating Permits	122.414(a) (1)	Acid Raid Permit Administrative Permit Revision	No	No approval process
THSC 382	122 Federal Operating Permits	122.414(a) (2)	Acid Rain Permit Fast-track Modification	Yes	

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	122 Federal Operating Permits	122.414(a) (3)	Acid Rain Permit Modification	Yes	
THSC 382	122 Federal Operating Permits	122.414(a) (4)	Acid Rain Permit Reopenings - incorporate ch. 106 and 116 requirements	No	No approval process
THSC 382	122 Federal Operating Permits	122.414(a) (4)	Acid Rain Permit Reopenings - all other reasons	Yes	
THSC 382	122 Federal Operating Permits	122.502	New General Operating Permit (GOP) Authorization to Operate (ATO)	Yes	
THSC 382	122 Federal Operating Permits	122.503 & 122.504	GOP Application Revision (streamlined)	No	They require application but not an issuance/approval - If they meet the requirements they are automatically permitted. (No approval process)
THSC 382	122 Federal Operating Permits	122.505	Renewal of ATO under GOP	Yes	
THSC 382	122 Federal Operating Permits	122.608(a) (2)	SOP case-by-case Periodic Monitoring (PM) - Significant Revision	Yes	
THSC 382	122 Federal Operating Permits	122.608(b) (1)	GOP revised to include PM GOP (streamlined)	No	No approval process
THSC 382	122 Federal Operating Permits	122.608(b) (2)	SOP minor revision to include PM GOP	No	No approval process

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 382	122 Federal Operating Permits	122.708(a) (2)	SOP case-by-case Continuous Ambient Monitoring (CAM) - Significant Revisions	Yes	
THSC 382	122 Federal Operating Permits	122.708(b) (1)	GOP revised to include CAM GOP (streamlined)	No	No approval process
THSC 382	122 Federal Operating Permits	122.708(b) (2)	SOP minor revision to include CAM GOP	No	No approval process
TWC 26	205	205.4	Authorizations and Notices of Intent for Stormwater and Other General Permits	No	Substantive review is not performed prior to approval
TWC 26	210	210.5	Use of Reclaimed Water	No	Authorization requires a discharge permit prior to approval of reuse.
TWC 26	210	210.51	Use of Industrial Reclaimed Water	Yes	
TWC 26	213 Edwards Aquifer	213.4(a)	Water Pollution Abatement Plan	Yes	
TWC 26	213 Edwards Aquifer	213.4(a)	Organized Sewage Collection System Plan	Yes	
TWC 26	213 Edwards Aquifer	213.4(a)	Underground Storage Tank Facility Plan	Yes	

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
TWC 26	213 Edwards Aquifer	213.4(a)	Aboveground Storage Tank Facility Plan	Yes	
TWC 26	213 Edwards Aquifer	213.4(a)	Modification	Yes	
TWC 26	213 Edwards Aquifer	213.4(a)	Exception Request	Yes	
TWC 26	213 Edwards Aquifer	213.4(h)	Extension of Time	Yes	
TWC 26	213 Edwards Aquifer	213.5	Application Processing and Approval	Yes	
TWC 26	213 Edwards Aquifer	213.23(a)	Contributing Zone Plan	Yes	
TWC 26	279	279.2	Water Quality Certification	No	No activity is authorized by the TCEQ, permitted activity is authorized by federal permit.
TWC 26 TWC 27 THSC 361 THSC 401	305	305.21, 305.29, 305.30, 305.31	Emergency and Temporary Orders	Yes	

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
TWC 26	305	305.42	TPDES wastewater discharge and TCEQ wastewater discharge permits (major amendments, renewals, and new applications)	Yes	
TWC 26 TWC 27 THSC 361	305	305.62	Minor amendments to wastewater permits, IHW permits, MSW permits, UIC permits, radioactive waste licenses	No*	Substantive review is not performed for approval of the amendment.
THSC 361 TWC 27	305	305.63	Permit Renewals	Yes	
TWC 26	305	305.64	Transfer of Ownership (requires commission approval) (Applies to Industrial and Municipal TPDES and Texas Land Application Permits (ch. 305), Agricultural (CAFO) Permits, TPDES and State-only (ch. 321), and Domestic Sewage sludge Permit processing facility and land application permits and registrations (ch. 312).	No	Agency does not perform a substantive review
THSC 361 TWC 27 THSC 401	305	305.64	Transfer of Ownership Municipal solid waste permits & registrations (Chapter 330), underground injection control permits (Chapter 331), industrial & hazardous waste permits (Chapter 335), radioactive waste licenses (Chapter 336).	Yes	
THSC 361	305	305.69	Class I ED Modifications (except change in ownership) to IHW Permits	No*	Specifically excluded.
THSC 361	305	305.69	Class 2 & Class 3 Modifications to IHW Permits	Yes	
THSC 361	305	305.70	MSW Class I Modifications to Permits/Registrations (except temporary authorizations & mods required public notice)	No	Specifically excluded.
THSC 361	305	305.70	MSW Class I Modifications Requiring Public Notice MSW Temporary Authorizations	Yes	
TWC 27	305	305.72	Minor Modifications to UIC Permits	No	Specifically excluded.

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 361	312	312.11	Disposal or incineration of sewage sludge	Yes	
THSC 361	312	312.12	Registration of Land Application Activities	Yes	
THSC 361	312	312.142	Sludge Transporter Registrations	No	“no decision”
TWC 26	321, subch. B	321.34	CAFO Permits	Yes	
TWC 26	321, subch. B	321.35	CAFO Registrations	Yes	
TWC 26	321, excluding subch. B	321	Permits by Rule	No	substantive review is not performed prior to approval
THSC 361	328	328.56	Generator Registration	No	“no decision”
THSC 361	328	328.57	Tire Transporter Registrations	Yes	
THSC 361	328	328.60	Scrap Tire Storage Site Registrations	Yes	
THSC 361	328	328.63	Scrap Tire Facilities	Yes	

No* - No, unless a motion for reconsideration or a motion to overturn is filed under 30 TEX. ADMIN. CODE § 50.39 or § 50.139 **and** the item is set for Commission agenda.

**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 361	330	330.4	Municipal Solid Waste Type I and Type IV Landfill Permits	Yes	
THSC 361	330	330.4	Municipal Solid Waste Type V Permits & Registrations	Yes	
THSC 361	330	330.4	Municipal Solid Waste Type VI Experimental Permits	Yes	
THSC 361	330	330.4	MSW Type IX Registrations (Facilities That Recover Gas for Beneficial Use)	Yes	
THSC 361	330	330.4	Registration for Mobile Liquid Waste Processing Units	Yes	
THSC 361	330	330.25	Special Permits for Stationary Compactors (MSW)	No	“No Decision”
THSC 361	330	330.32	Special Permits for Transporter Route (MSW)	No	“No Decision”
THSC 361	330	330.407	Registration Application Processing (w/r/t landfill mining)	Yes	
THSC 361	330	330.952	Permits and Registrations for use of land over closed MSW landfills	Yes	
THSC 361	330	330.1005	Registrations for Transporters of Medical Waste	No	“No Decision”
TWC 27	331	331.7	UIC Class I Well Permits	Yes	
TWC 27	331	331.7	UIC Class III Well Permits	Yes	
TWC 27	331	331.7	UIC Production Area Authorization	Yes	

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
TWC 27	331	331.9	Authorizations for Class V UIC Wells UIC program processes almost all Class V injection wells as authorizations by rule. Exception: 30 TEX. ADMIN. CODE §331.9(b) allows for permit by rule, except for disposal of greater than 5,000 gallons per day of sewage or sewage effluent, which requires a wastewater discharge permit under 30 TEX. ADMIN. CODE ch. 305, which does require a compliance history (see above).	No (☞ see exception)	Agency not required to perform substantive review or approve/disapprove. For almost all entities there is no compliance record.
THSC 361	332	332.34	Registration Application	Yes	
THSC 361	332	Subchapter D	Operations Requiring a Permit	Yes	
TWC 26	334	334.6	Notification for Construction of USTs	No	“no decision”
TWC 26	334	334.7	Registration of USTs	No	“no decision”
TWC 26	334	334.8	Annual Certification	No	“no decision”
TWC 26	334	334.43	Variances and Alternative procedures	Yes	
TWC 26	334	334.126	Installation Notification for ASTs	No	“no decision”
TWC 26	334	334.127	Registration of ASTs	No	“no decision”
THSC 361	335	335.2	Permit for Hazardous Waste Treatment, Storage, Disposal, or Post-Closure Care Post-Closure Care Orders (361.082, 350.2)	Yes Yes	

No* - No, unless a motion for reconsideration or a motion to overturn is filed under 30 TEX. ADMIN. CODE § 50.39 or § 50.139 **and** the item is set for Commission agenda.

**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
THSC 361	335	335.2	Permit for Offsite or Commercial Disposal, Treatment or Storage of Industrial Nonhazardous Waste	Yes	
THSC 361	335	335.6	Solid Waste Notice of Registrations	No	“no decision”
THSC 361	335	335.6	On-site management of nonhazardous waste for which notification is required	No	“no decision”
THSC 361	335	335.8	Closure of IHW Interim Status and Non-Hazardous Waste Management Units	No	Closure is required under commission rules. Closure plan approvals and closure certifications do not authorize new activities.
THSC 361	335	335.503	One-time shipment authorizations	No	“no decision”
THSC 401	336	336.501	License for On-Site Disposal of Radioactive Materials	Yes	
THSC 401	336	336.601	Decommissioning License	Yes	
THSC 401	336	336.703	License for Commercial Disposal of Low-Level Radioactive Waste	Yes	

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**Does not apply to occupational licensing

stat. auth. (TWC/ THSC)	30 TAC ch.	section	type of permit or other authorization referenced?	Does it require a compliance history? Yes/No/No*	If NO, why not?
			Remediation of spills or other contamination	No	These actions are required under commission rules and the executive director reviews the actions taken during remediation to determine compliance with the rules and gives approval to implement the next requirement. However, the executive director is not authorizing any new activity and thus the commission determined that these actions are not subject to the compliance history review requirements.

No* - No, unless a motion for reconsideration or a motion to overturn is filed under 30 TEX. ADMIN. CODE § 50.39 or § 50.139 **and** the item is set for Commission agenda.
**Does not apply to occupational licensing

How Implementation Dates Will Affect Agency Actions:

“Agency Action” refers to a final decision, whether made by ED or Commission.

For Agency Actions other than UIC:

When the Agency Action Is Taken:	Which Components to Develop Compliance History With: Old vs. New*	Which “Procedure” to Utilize: Old vs. New**
Prior to February 1, 2002	Old	Old
Between February 1, 2002 and August 31, 2002 (See HB 2912, §18.05(i))	New	Old
On or after September 1, 2002 (See HB 2912, §18.05(g))		
For all Actions Except Permit Actions	New	New
For Permit Actions, when permit application submitted prior to September 1, 2002, (except air flexible permits)	New	Old
For Permit Actions, when permit application submitted on or after September 1, 2002, and actions on air flexible permits	New	New

(This table includes everything but UIC; for UIC, see second table.)

* “Old” means those compliance history components in 30 TEX. ADMIN. CODE chs. 116 and 281, the Enforcement Penalty Policy, etc. “New” means compliance history components as required under 30 TEX. ADMIN. CODE § 60.1.

** “Old” means those compliance history procedures in 30 TEX. ADMIN. CODE chs. 116 and 281, the Enforcement Penalty Policy, etc. “New” means compliance history procedures as required under 30 TEX. ADMIN. CODE ch. 60.

For UIC Permit Applications:

When the Agency Action Is Taken:	Which Components to Develop Compliance History With: Old vs. New*	Which “Procedure” to Utilize: Old vs. New**
Prior to February 1, 2002	Old	Old
Between February 1, 2002 and August 31, 2002 (See HB 2912, §18.05(i))	New	Old
On or after September 1, 2002 (See HB 2912, §18.05(g))		
When Permit Application Submitted Prior To September 1, 2002	New	Old
When Permit Application Submitted On or After September 1, 2002	New	New

(This table only related to UIC permit applications; for all other actions, see first table.)

* “Old” means those compliance history components in 30 TEX. ADMIN. CODE § 281.21. “New” means compliance history components as required under 30 TEX. ADMIN. CODE § 60.1.

** “Old” means those compliance history procedures in 30 TEX. ADMIN. CODE § 281.21. “New” means compliance history procedures as required under 30 TEX. ADMIN. CODE ch. 60.

It should be noted that 30 TEX. ADMIN. CODE § 281.21(d)(7) requires that, for applications for underground injection control permits submitted or pending on or after May 26, 2001 (which is when SB 324 became effective), and before September 1, 2002 (which is when the classification and use portion of compliance history rulemaking under HB 2912 is required to be effective by), a comprehensive compliance summary must be compiled in accordance with 30 TEX. ADMIN. CODE § 281.21(d) (i.e. “Old”). The summary shall include the applicant’s compliance history, including the compliance history of any corporation or business entity managed, owned, or otherwise closely related to the applicant. Closely related entities include business entities that share common partnership members, association members, or corporate officers with the applicant; or business entities in which the applicant has an ownership interest of at least 20%. The summary shall include the compliance history for all media regulated by the commission including, but not limited to, underground injection, solid waste, water, and air. The summary shall include the information required in 30 TEX. ADMIN. CODE § 281.21(d)(1) - (6).