

By: Smith

H.B. No. 1714

Substitute the following for H.B. No. 1714:

By: Lewis

C.S.H.B. No. 1714

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the discontinuance of the Texas Commission on
3 Environmental Quality's compliance history program.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 361.084(a), (c), and (d), Health and
6 Safety Code, are amended to read as follows:

7 (a) The commission by rule shall establish a procedure to
8 prepare compliance summaries relating to the applicant's solid
9 waste management activities [~~in accordance with the method for~~
10 ~~evaluating compliance history developed by the commission under~~
11 ~~Section 5.754, Water Code~~]. A compliance summary shall include as
12 evidence of compliance information regarding the applicant's
13 implementation of an environmental management system at the
14 facility for which the authorization is sought. In this
15 subsection, "environmental management system" has the meaning
16 assigned by Section 5.127, Water Code.

17 (c) Evidence of compliance or noncompliance by an applicant
18 for a solid waste management facility permit with agency rules,
19 permits, other orders, or evidence of a final determination of
20 noncompliance with federal statutes or statutes of any state in the
21 preceding five years concerning solid waste management may be:

22 (1) offered by a party at a hearing concerning the
23 application; and

24 (2) admitted into evidence subject to applicable rules

1 of evidence.

2 (d) The commission shall consider all evidence admitted,
3 including the record of compliance for the preceding five years
4 [~~history~~], in determining whether to issue, amend, extend, or renew
5 a permit.

6 SECTION 2. Section 361.088(f), Health and Safety Code, is
7 amended to read as follows:

8 (f) Notwithstanding Subsection (e), if the commission
9 determines that an applicant's record of compliance for the
10 preceding five years [~~history under the method for evaluating~~
11 ~~compliance history developed by the commission under Section 5.754,~~
12 ~~Water Code,~~] raises an issue regarding the applicant's ability to
13 comply with a material term of its permit, the commission shall
14 provide an opportunity to request a contested case hearing.

15 SECTION 3. Sections 361.089(a), (e), and (f), Health and
16 Safety Code, are amended to read as follows:

17 (a) The commission may, for good cause, deny or amend a
18 permit it issues or has authority to issue for reasons pertaining to
19 public health, air or water pollution, or land use, or for having a
20 record of compliance for the preceding five years that contains
21 violations that constitute a recurring pattern of egregious conduct
22 that demonstrates a consistent disregard for the regulatory
23 process, including the failure to make a timely and substantial
24 attempt to correct the violations [~~history that is classified as~~
25 ~~unsatisfactory according to commission standards under Sections~~
26 ~~5.753 and 5.754, Water Code, and rules adopted and procedures~~
27 ~~developed under those sections~~].

1 (e) The commission may deny an original or renewal permit if
2 it is found, after notice and hearing, that:

3 (1) the applicant or permit holder has a record of
4 compliance for the preceding five years at the permitted site that
5 contains violations that constitute a recurring pattern of
6 egregious conduct that demonstrates a consistent disregard for the
7 regulatory process, including the failure to make a timely and
8 substantial attempt to correct the violations [~~history that is~~
9 ~~classified as unsatisfactory according to commission standards~~
10 ~~under Sections 5.753 and 5.754, Water Code, and rules adopted and~~
11 ~~procedures developed under those sections~~];

12 (2) the permit holder or applicant made a false or
13 misleading statement in connection with an original or renewal
14 application, either in the formal application or in any other
15 written instrument relating to the application submitted to the
16 commission, its officers, or its employees;

17 (3) the permit holder or applicant is indebted to the
18 state for fees, payment of penalties, or taxes imposed by this title
19 or by a rule of the commission; or

20 (4) the permit holder or applicant is unable to ensure
21 that the management of the hazardous waste management facility
22 conforms or will conform to this title and the rules of the
23 commission.

24 (f) Before denying a permit under this section, the
25 commission must find:

26 (1) that the applicant or permit holder has a record of
27 compliance for the preceding five years at the permitted site that

1 contains violations that constitute a recurring pattern of
2 egregious conduct that demonstrates a consistent disregard for the
3 regulatory process, including the failure to make a timely and
4 substantial attempt to correct the violations [~~history that is~~
5 ~~classified as unsatisfactory according to commission standards~~
6 ~~under Sections 5.753 and 5.754, Water Code, and rules adopted and~~
7 ~~procedures developed under those sections~~]; or

8 (2) that the permit holder or applicant is indebted to
9 the state for fees, payment of penalties, or taxes imposed by this
10 title or by a rule of the commission.

11 SECTION 4. Section 375.101(a), Health and Safety Code, is
12 amended to read as follows:

13 (a) A vehicle recycler or scrap metal recycling facility
14 that removes convenience switches from eligible vehicles in
15 accordance with educational materials received under this chapter
16 shall be provided regulatory incentives by the commission [~~under~~
17 ~~programs implemented pursuant to Section 5.755, Water Code~~],
18 including on-site technical assistance [~~and compliance history~~
19 ~~classification adjustments~~].

20 SECTION 5. Section 382.0216(j), Health and Safety Code, is
21 amended to read as follows:

22 (j) The commission shall account for and consider chronic
23 excessive emissions events and emissions events for which the
24 commission has initiated enforcement in the manner set forth by the
25 commission in its review of an entity's record of compliance for the
26 preceding five years [~~history~~].

27 SECTION 6. Section 382.0518(c), Health and Safety Code, is

1 amended to read as follows:

2 (c) In considering the issuance, amendment, or renewal of a
3 permit, the commission may consider the applicant's record of
4 compliance for the preceding five years [~~history in accordance with~~
5 ~~the method for using compliance history developed by the commission~~
6 ~~under Section 5.754, Water Code~~]. In considering an applicant's
7 record of compliance [~~history~~] under this subsection, the
8 commission shall consider as evidence of compliance information
9 regarding the applicant's implementation of an environmental
10 management system at the facility for which the permit, permit
11 amendment, or permit renewal is sought. In this subsection,
12 "environmental management system" has the meaning assigned by
13 Section 5.127, Water Code.

14 SECTION 7. Section 382.055(d), Health and Safety Code, is
15 amended to read as follows:

16 (d) In determining whether and under which conditions a
17 preconstruction permit should be renewed, the commission shall
18 consider, at a minimum:

19 (1) the record of compliance for the preceding five
20 years [~~performance~~] of the owner or operator of the facility
21 [~~according to the method developed by the commission under Section~~
22 ~~5.754, Water Code~~]; and

23 (2) the condition and effectiveness of existing
24 emission control equipment and practices.

25 SECTION 8. Section 382.056(o), Health and Safety Code, is
26 amended to read as follows:

27 (o) Notwithstanding other provisions of this chapter, the

1 commission may hold a hearing on a permit amendment, modification,
2 or renewal if the commission determines that the application
3 involves a facility for which the applicant's record of compliance
4 for the preceding five years contains unresolved violations that
5 constitute a recurring pattern of egregious conduct that
6 demonstrates a consistent disregard for the regulatory process,
7 including the failure to make a timely and substantial attempt to
8 correct the violations [~~history is classified as unsatisfactory~~
9 ~~according to commission standards under Sections 5.753 and 5.754,~~
10 ~~Water Code, and rules adopted and procedures developed under those~~
11 ~~sections~~].

12 SECTION 9. Section 382.401(b), Health and Safety Code, is
13 amended to read as follows:

14 (b) The commission by rule shall establish a program that
15 allows the owner or operator of a facility regulated under this
16 chapter to use voluntarily as a supplemental detection method any
17 leak detection technology that has been incorporated and adopted by
18 the United States Environmental Protection Agency into a program
19 for detecting leaks or emissions of air contaminants. The program
20 must provide regulatory incentives to encourage voluntary use of
21 the alternative leak detection technology at a regulated facility
22 that is capable of detecting leaks or emissions that may not be
23 detected by methods or technology approvable under the commission's
24 regulatory program for leak detection and repair in effect on the
25 date the commission adopts the program. The incentives may
26 include:

27 (1) on-site technical assistance; and

1 (2) to the extent consistent with federal
2 requirements:

3 (A) inclusion of the facility's use of
4 alternative leak detection technology in the owner or operator's
5 record of compliance for the preceding five years [~~history~~] and
6 compliance summaries;

7 (B) consideration of the implementation of
8 alternative leak detection technology in scheduling and conducting
9 compliance inspections; and

10 (C) credits or offsets to the facility's
11 emissions reduction requirements based on the emissions reductions
12 achieved by voluntary use of alternative leak detection technology.

13 SECTION 10. Section 401.110, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 401.110. DETERMINATION ON LICENSE. (a) In making a
16 determination whether to grant, deny, amend, renew, revoke,
17 suspend, or restrict a license or registration, the commission may
18 consider those aspects of an applicant's or license holder's
19 background that bear materially on the ability to fulfill the
20 obligations of licensure, including technical competence,
21 financial qualifications, and the applicant's or license holder's
22 record of compliance in areas involving radiation [~~compliance~~
23 ~~history under the method for using compliance history developed by~~
24 ~~the commission under Section 5.754, Water Code)].~~

25 (b) In making a determination whether to grant, deny, amend,
26 renew, revoke, suspend, or restrict a license or registration, the
27 department may consider the technical competence, financial

1 qualifications, and record of compliance for the preceding five
2 years [~~history~~] of an applicant, license holder, or registration
3 holder. After an opportunity for a hearing, the department shall
4 deny an application for a license or registration, license or
5 registration amendment, or license or registration renewal if the
6 applicant's record of compliance for the preceding five years
7 [~~history~~] reveals a recurring pattern of conduct that demonstrates
8 a consistent disregard for the regulatory process through
9 significant violations of this chapter or the department's rules
10 adopted under this chapter.

11 SECTION 11. Section 401.112(a), Health and Safety Code, is
12 amended to read as follows:

13 (a) The commission, in making a licensing decision on a
14 specific license application to process or dispose of low-level
15 radioactive waste from other persons, shall consider:

16 (1) site suitability, geological, hydrological, and
17 meteorological factors, and natural hazards;

18 (2) compatibility with present uses of land near the
19 site;

20 (3) socioeconomic effects on surrounding communities
21 of operation of the licensed activity and of associated
22 transportation of low-level radioactive waste;

23 (4) the need for and alternatives to the proposed
24 activity, including an alternative siting analysis prepared by the
25 applicant;

26 (5) the applicant's qualifications, including:

27 (A) financial and technical qualifications and

1 record of compliance for the preceding five years [~~history under~~
2 ~~the method for using compliance history developed by the commission~~
3 ~~under Section 5.754, Water Code, for an application to the~~
4 ~~commission~~]; and

5 (B) the demonstration of financial
6 qualifications under Section 401.108;

7 (6) background monitoring plans for the proposed site;

8 (7) suitability of facilities associated with the
9 proposed activities;

10 (8) chemical, radiological, and biological
11 characteristics of the low-level radioactive waste and waste
12 classification under Section 401.053;

13 (9) adequate insurance of the applicant to cover
14 potential injury to any property or person, including potential
15 injury from risks relating to transportation;

16 (10) training programs for the applicant's employees;

17 (11) a monitoring, record-keeping, and reporting
18 program;

19 (12) spill detection and cleanup plans for the
20 licensed site and related to associated transportation of low-level
21 radioactive waste;

22 (13) decommissioning and postclosure care plans;

23 (14) security plans;

24 (15) worker monitoring and protection plans;

25 (16) emergency plans; and

26 (17) a monitoring program for applicants that includes
27 prelicense and postlicense monitoring of background radioactive

1 and chemical characteristics of the soils, groundwater, and
2 vegetation.

3 SECTION 12. Section 401.243, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 401.243. RECORD OF COMPLIANCE [~~HISTORY~~]. After an
6 opportunity for a hearing, the commission shall deny an application
7 for a license under this subchapter or an amendment or renewal for a
8 license under this subchapter if the applicant's record of
9 compliance for the preceding five years [~~history~~] reveals a
10 recurring pattern of conduct that demonstrates a consistent
11 disregard for the regulatory process through a history of
12 violations of this chapter or the commission's rules under this
13 chapter.

14 SECTION 13. Section 5.127(b), Water Code, is amended to
15 read as follows:

16 (b) The commission by rule shall adopt a comprehensive
17 program that provides regulatory incentives to encourage the use of
18 environmental management systems by regulated entities, state
19 agencies, local governments, and other entities as determined by
20 the commission. The incentives may include:

- 21 (1) on-site technical assistance;
- 22 (2) accelerated access to information about programs;
- 23 and
- 24 (3) to the extent consistent with federal
25 requirements:

26 (A) inclusion of information regarding an
27 entity's use of an environmental management system in the entity's

1 record of compliance for the preceding five years [~~history~~] and
2 compliance summaries; and

3 (B) consideration of the entity's implementation
4 of an environmental management system in scheduling and conducting
5 compliance inspections.

6 SECTION 14. Section 5.1733, Water Code, is amended to read
7 as follows:

8 Sec. 5.1733. ELECTRONIC POSTING OF INFORMATION. The
9 commission shall post public information on its website. Such
10 information shall include but not be limited to the minutes of
11 advisory committee meetings, pending permit and enforcement
12 actions, records of compliance for the preceding five years
13 [~~histories~~], and emissions inventories by county and facility name.

14 SECTION 15. Section 5.758, Water Code, is transferred to
15 Subchapter D, Chapter 5, Water Code, redesignated as Section 5.123,
16 Water Code, and amended to read as follows:

17 Sec. 5.123 [~~5.758~~]. REGULATORY FLEXIBILITY. (a) The
18 commission by order may exempt an applicant from a requirement of a
19 statute or commission rule regarding the control or abatement of
20 pollution if the applicant proposes to control or abate pollution
21 by an alternative method or by applying an alternative standard
22 that is:

23 (1) at least as protective of the environment and the
24 public health as the method or standard prescribed by the statute or
25 commission rule that would otherwise apply; and

26 (2) not inconsistent with federal law.

27 (b) [~~The commission may not exempt an applicant under this~~

1 ~~section unless the applicant can present to the commission evidence~~
2 ~~that the alternative the applicant proposes is as protective of the~~
3 ~~environment and the public health as the method or standard~~
4 ~~prescribed by the statute or commission rule that would otherwise~~
5 ~~apply.~~

6 ~~(c)~~ The commission by rule shall specify the procedure for
7 obtaining an exemption under this section. The rules must provide
8 for public notice and for public participation in a proceeding
9 involving an application for an exemption under this section.

10 (c) ~~(d)~~ The commission's order must provide a description
11 of the alternative method or standard and condition the exemption
12 on compliance with the method or standard as the order prescribes.

13 (d) ~~(e)~~ The commission by rule may establish a reasonable
14 fee for applying for an exemption under this section.

15 (e) ~~(f)~~ A violation of an order issued under this section
16 is punishable as if it were a violation of the statute or rule from
17 which the order grants an exemption.

18 (f) A permit may satisfy a requirement to demonstrate need
19 by showing need on a regional basis considering economic impacts.

20 (g) This section does not authorize exemptions to statutes
21 or regulations for storing, handling, processing, or disposing of
22 low-level radioactive materials.

23 (h) In implementing the program of regulatory flexibility
24 authorized by this section, the commission shall:

25 (1) promote the program to businesses in the state
26 through all available appropriate media;

27 (2) endorse alternative methods that will ~~clearly~~

1 benefit the environment and impose the least onerous restrictions
2 on business;

3 (3) fix and enforce environmental standards, allowing
4 businesses flexibility in meeting the standards in a manner that
5 [~~clearly~~] enhances environmental outcomes; and

6 (4) work to achieve consistent and predictable results
7 for the regulated community and shorter waits for permit issuance.

8 SECTION 16. Section 7.070, Water Code, is amended to read as
9 follows:

10 Sec. 7.070. FINDINGS OF FACT NOT REQUIRED; RESERVATIONS.
11 Notwithstanding any other provision to the contrary, the commission
12 is not required to make findings of fact or conclusions of law other
13 than an uncontested finding that the commission has jurisdiction in
14 an agreed order compromising or settling an alleged violation of a
15 statute within the commission's jurisdiction or of a rule adopted
16 or an order or a permit issued under such a statute. An agreed
17 administrative order may include a reservation that:

18 (1) the order is not an admission of a violation of a
19 statute within the commission's jurisdiction or of a rule adopted
20 or an order or a permit issued under such a statute;

21 (2) the occurrence of a violation is in dispute; or

22 (3) the order is not intended to become a part of a
23 party's or a facility's record of compliance for the preceding five
24 years [~~history~~].

25 SECTION 17. Sections 26.028(d) and (e), Water Code, are
26 amended to read as follows:

27 (d) Notwithstanding any other provision of this chapter,

1 the commission, at a regular meeting without the necessity of
2 holding a public hearing, may approve an application to renew or
3 amend a permit if:

4 (1) the applicant is not applying to:

5 (A) increase significantly the quantity of waste
6 authorized to be discharged; or

7 (B) change materially the pattern or place of
8 discharge;

9 (2) the activities to be authorized by the renewed or
10 amended permit will maintain or improve the quality of waste
11 authorized to be discharged;

12 (3) for NPDES permits, notice and the opportunity to
13 request a public meeting shall be given in compliance with NPDES
14 program requirements, and the commission shall consider and respond
15 to all timely received and significant public comment; and

16 (4) the commission determines that an applicant's
17 record of compliance for the preceding five years [~~history under~~
18 ~~the method for using compliance history developed by the commission~~
19 ~~under Section 5.754~~] raises no issues regarding the applicant's
20 ability to comply with a material term of its permit.

21 (e) In considering an applicant's record of compliance
22 [~~history~~] under Subsection (d)(4), the commission shall consider as
23 evidence of compliance information regarding the applicant's
24 implementation of an environmental management system at the
25 facility for which the permit, permit amendment, or permit renewal
26 is sought. In this subsection, "environmental management system"
27 has the meaning assigned by Section 5.127.

1 SECTION 18. Section 26.0281, Water Code, is amended to read
2 as follows:

3 Sec. 26.0281. CONSIDERATION OF RECORD OF COMPLIANCE
4 [~~HISTORY~~]. In considering the issuance, amendment, or renewal of a
5 permit to discharge effluent comprised primarily of sewage or
6 municipal waste, the commission shall consider the record of
7 compliance for the preceding five years [~~history~~] of the applicant
8 and its operator [~~under the method for using compliance history~~
9 ~~developed by the commission under Section 5.754~~]. In considering
10 an applicant's record of compliance [~~history~~] under this
11 subsection, the commission shall consider as evidence of compliance
12 information regarding the applicant's implementation of an
13 environmental management system at the facility for which the
14 permit, permit amendment, or permit renewal is sought. In this
15 section, "environmental management system" has the meaning
16 assigned by Section 5.127.

17 SECTION 19. Section 26.040(h), Water Code, is amended to
18 read as follows:

19 (h) Notwithstanding other provisions of this chapter, the
20 commission, after hearing, shall deny or suspend a discharger's
21 authority to discharge under a general permit if the commission
22 determines that the discharger operates any facility for which the
23 discharger's record of compliance for the preceding five years
24 contains violations that constitute a recurring pattern of
25 egregious conduct that demonstrates a consistent disregard for the
26 regulatory process, including a failure to make a timely and
27 substantial attempt to correct the violations [~~history is~~

1 ~~classified as unsatisfactory according to commission standards~~
2 ~~under Sections 5.753 and 5.754 and rules adopted and procedures~~
3 ~~developed under those sections~~]. A hearing under this subsection is
4 not subject to Chapter 2001, Government Code.

5 SECTION 20. Section 27.025(g), Water Code, is amended to
6 read as follows:

7 (g) Notwithstanding the other provisions of this chapter,
8 the commission, after hearing, shall deny or suspend authorization
9 for the use of an injection well under a general permit if the
10 commission determines that the owner operates any facility for
11 which the owner's record of compliance for the preceding five years
12 contains violations that constitute a recurring pattern of
13 egregious conduct that demonstrates a consistent disregard for the
14 regulatory process, including a failure to make a timely and
15 substantial attempt to correct the violations [~~history is~~
16 ~~classified as unsatisfactory according to commission standards~~
17 ~~under Sections 5.753 and 5.754 and rules adopted and procedures~~
18 ~~developed under those sections~~]. A hearing under this subsection
19 is not subject to the requirements relating to a contested case
20 hearing under Chapter 2001, Government Code.

21 SECTION 21. Section 27.051(d), Water Code, is amended to
22 read as follows:

23 (d) The commission, in determining if the use or
24 installation of an injection well is in the public interest under
25 Subsection (a)(1), shall consider, but shall not be limited to the
26 consideration of:

27 (1) the record of compliance for the preceding five

1 years [~~history~~] of the applicant and related entities [~~under the~~
2 ~~method for using compliance history developed by the commission~~
3 ~~under Section 5.754 and~~] in accordance with the provisions of
4 Subsection (e);

5 (2) whether there is a practical, economic, and
6 feasible alternative to an injection well reasonably available; and

7 (3) if the injection well will be used for the disposal
8 of hazardous waste, whether the applicant will maintain sufficient
9 public liability insurance for bodily injury and property damage to
10 third parties that is caused by sudden and non-sudden accidents or
11 will otherwise demonstrate financial responsibility in a manner
12 adopted by the commission in lieu of public liability insurance. A
13 liability insurance policy which satisfies the policy limits
14 required by the hazardous waste management regulations of the
15 commission for the applicant's proposed pre-injection facilities
16 shall be deemed "sufficient" under this subdivision if the policy:

17 (A) covers the injection well; and

18 (B) is issued by a company that is authorized to
19 do business and to write that kind of insurance in this state and is
20 solvent and not currently under supervision or in conservatorship
21 or receivership in this state or any other state.

22 SECTION 22. Section 27.051(e), Water Code, as amended by
23 Chapters 347 (S.B. 324), 965 (H.B. 2912), and 1161 (H.B. 2997), Acts
24 of the 77th Legislature, Regular Session, 2001, is reenacted and
25 amended to read as follows:

26 (e) The [~~Consistent with Sections 5.753 and 5.754 and rules~~
27 ~~adopted and procedures developed under those sections, the~~]

1 commission shall establish a procedure for the preparation of
2 comprehensive summaries of the applicant's record of compliance for
3 the preceding five years [~~history~~], including the record of
4 compliance for the preceding five years [~~history~~] of any
5 corporation or business entity managed, owned, or otherwise closely
6 related to the applicant. A compliance summary must include as
7 evidence of compliance information regarding the applicant's
8 implementation of an environmental management system at the
9 facility for which an authorization is sought. The summaries shall
10 be made available to the applicant and any interested person after
11 the commission has completed its technical review of the permit
12 application and prior to the promulgation of the public notice
13 relating to the issuance of the permit. Evidence of compliance or
14 noncompliance by an applicant for an injection well permit with
15 environmental statutes and the rules adopted or orders or permits
16 issued by the commission may be offered by any party at a hearing on
17 the applicant's application and admitted into evidence subject to
18 applicable rules of evidence. [~~In accordance with this subsection~~
19 ~~and Sections 5.753 and 5.754 and rules adopted and procedures~~
20 ~~developed under those sections, evidence of the compliance history~~
21 ~~of an applicant for an injection well may be offered at a hearing on~~
22 ~~the application and may be admitted into evidence, subject to the~~
23 ~~rules of evidence.~~] Evidence of an applicant's record of [~~the~~
24 compliance for the preceding five years [~~history of an applicant~~]
25 for an injection well permit may be offered by the executive
26 director at a hearing on the application and admitted into evidence
27 subject to the rules of evidence. All evidence admitted, including

1 the record of compliance for the preceding five years [~~history~~],
2 shall be considered by the commission in determining whether to
3 issue, amend, extend, or renew a permit. If the commission
4 concludes that the applicant's record of compliance for the
5 preceding five years [~~history~~] is unacceptable, the commission
6 shall deny the permit. In this subsection, "environmental
7 management system" has the meaning assigned by Section 5.127.

8 SECTION 23. Sections 32.101(c) and (d), Water Code, are
9 amended to read as follows:

10 (c) The commission, in determining if the use or
11 installation of a subsurface area drip dispersal system is in the
12 public interest under Subsection (a)(1), shall consider:

13 (1) the record of compliance for the preceding five
14 years [~~history~~] of the applicant and related entities [~~under the~~
15 ~~method for using compliance history developed by the commission~~
16 ~~under Section 5.754 and~~] in accordance with the provisions of
17 Subsection (d) [~~of this section~~];

18 (2) whether there is a practical, economic, and
19 feasible alternative to a subsurface area drip dispersal system
20 reasonably available; and

21 (3) any other factor the commission considers
22 relevant.

23 (d) The commission shall establish a procedure for the
24 preparation of comprehensive summaries of the applicant's record of
25 compliance for the preceding five years [~~history~~], including the
26 record of compliance for the preceding five years [~~history~~] of any
27 corporation or other business entity managed, owned, or otherwise

1 closely related to the applicant. The summaries shall be made
2 available to the applicant and any interested person after the
3 commission has completed its technical review of the permit
4 application and prior to giving public notice relating to the
5 issuance of the permit. Evidence of compliance or noncompliance by
6 an applicant for a subsurface area drip dispersal system permit
7 with environmental statutes and the rules adopted or orders or
8 permits issued by the commission may be offered by any party at a
9 hearing on the applicant's application and admitted into evidence
10 subject to applicable rules of evidence. Evidence of the record of
11 compliance for the preceding five years [~~history~~] of an applicant
12 for a subsurface area drip dispersal system permit may be offered by
13 the executive director at a hearing on the application and admitted
14 into evidence subject to the rules of evidence. The commission
15 shall consider all evidence admitted, including the record of
16 compliance for the preceding five years [~~history~~], in determining
17 whether to issue, amend, extend, or renew a permit. If the
18 commission concludes that the applicant's record of compliance for
19 the preceding five years [~~history~~] is unacceptable, the commission
20 shall deny the permit.

21 SECTION 24. The following provisions are repealed:

22 (1) the heading to Subchapter Q, Chapter 5, Water
23 Code;

24 (2) Sections 5.751, 5.752, 5.753, 5.754, 5.755, 5.756,
25 and 5.757, Water Code;

26 (3) Section 361.0215(c), Health and Safety Code;

27 (4) Section 361.088(g), Health and Safety Code; and

1 (5) Section 27.051(h), Water Code.

2 SECTION 25. The change in law made by this Act applies only
3 to an application for a permit, permit amendment, or permit renewal
4 that is filed with the Texas Commission on Environmental Quality on
5 or after the effective date of this Act. An application for a
6 permit, permit amendment, or permit renewal that is filed with the
7 commission before the effective date of this Act is governed by the
8 law in effect on the date the application is filed, and that law is
9 continued in effect for that purpose.

10 SECTION 26. This Act takes effect September 1, 2013.