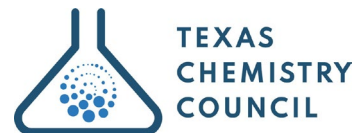


Logan Harrell

See attached joint comment letter from the Texas Association of Manufacturers, Texas Chemistry Council, and Texas Oil and Gas Association.



August 25, 2025

Rule Project No. 2024-043-060-CE

VIA ELECTRONIC SUBMITTAL

Gwen Ricco
Office of Legal Services, MC 205
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: Texas Association of Manufacturers, Texas Chemistry Council, and Texas Oil and Gas Association's joint comments on Proposed Revisions to 30 TAC Chapter 60

Dear Ms. Ricco:

The Texas Association of Manufacturers¹ (TAM), Texas Chemistry Council² (TCC), and Texas Oil and Gas Association³ (TXOGA), herein as referred to "the Associations", appreciate the opportunity to provide feedback on the Texas Commission on Environmental Quality's (TCEQ) proposed changes to 30 Texas Administrative Code (TAC) Chapter 60, Compliance History.

Our comments address concerns with the proposed rulemaking, which responds to the 2023 Sunset Advisory Commission Report and Senate Bill (SB) 1397, aiming to refine TCEQ's compliance history framework to better reflect a site's violation record while considering site complexity and cumulative violations. Below, we outline recommendations to ensure the proposal aligns with statutory requirements, promotes fairness, and accurately represents compliance performance.

¹ TAM promotes and protects a pro-growth business environment that ensures a strong manufacturing sector and a competitive Texas. Manufacturers in Texas account for 11.3% of the state's total output – more than \$292.6 billion in 2023 – and manufacturers employ more than 970,000 Texans in jobs that pay an average compensation of more than \$108,000 a year. TAM represents over 500 companies of all sizes and is the voice of the manufacturing community and the leading advocate for policies that help manufacturers compete in the global economy and create jobs across Texas.

² TCC represents 60 member companies who own and operate more than 200 manufacturing and research facilities across the state of Texas. Our members have over \$250 Billion in physical assets in the state and support more than 500,000 Texas jobs. Texas chemical manufacturing is the #1 non-energy export in the state with over \$56 Billion in annual exports to customers around the world. The business of chemistry in Texas pays more than \$2 Billion in state and local taxes and over \$3.45 Billion in federal taxes each year.

³ TXOGA is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces approximately 90 percent of Texas' crude oil and natural gas and operates the vast majority of the state's refineries, LNG export capacity and pipelines. In fiscal year 2024, the Texas oil and natural gas industry supported over 490,000 direct jobs and paid \$27.3 billion in state and local taxes and state royalties, funding our state's schools, roads and first responders.

The Associations urge TCEQ to revise 30 TAC § 60.2(f) to comply with Texas Water Code (TWC) § 5.754(c)(2)(B), which mandates that repeat violator status be based on violations that *occurred* within the preceding five years, not the date of a final enforcement action. Currently, TCEQ uses the date of final enforcement (e.g., an Agreed Order) to determine compliance history, which can include violations from well beyond the five-year period. This practice deviates from the statute’s clear intent.

The Associations suggest amending 30 TAC § 60.2(f) to include:

A person may be classified as a repeat violator at a site when multiple major, moderate, or minor violations of the same nature and environmental media occur within the preceding five-year compliance period. Only violations that occurred within this period shall be considered.

This change ensures compliance with statutory language, reduces ambiguity, and streamlines the evaluation process.

The Associations also recommend revising 30 TAC § 60.1(b) and 60.2(g) to limit compliance history points to violations that *occurred* within the five-year period, rather than relying on the date of final enforcement action. TCEQ’s current approach can misrepresent a site’s current compliance status, which is made worse with enforcement backlogs. For instance, violations from 2018–2020, resolved in a 2025 Agreed Order, may impact a site’s compliance history score until 2030, despite corrections made several years earlier. The Associations appreciate the continued effort by the agency to address its enforcement action backlog. However, the proposed approach undermines the intent of the statute and proposal’s goal of accurately reflecting a site’s 5-year performance based on when the violations occurred.

We propose adding to 30 TAC § 60.1(b):

The compliance history period includes the five years prior to the date a permit application is received. Notices of violation may only be used as a component of compliance history for one year from issuance, and only violations that occurred within the five-year period may be included.

For 30 TAC § 60.2(g), we suggest:

- (g)(1)(A): The number of major violations *that occurred in the preceding five-year period* . . .
- (g)(1)(B): The number of moderate violations *that occurred in the preceding five-year period* . . .
- (g)(1)(C): The number of minor violations *that occurred in the preceding five-year period* . . .

These changes align with TWC §§ 5.754(c)(2)(B) and 7.302(b)(2), ensuring consistency and fairness in compliance history evaluations.

The Associations similarly recommend that TCEQ revise the definition of “same nature” in 30 TAC § 60.2(f) to focus on specific equipment and root causes, rather than the current “root citation” approach. The existing definition, which considers violations under the same rule subsection (e.g., 30 TAC § 116.115 for New Source Review permit violations) as “same nature,” risks over-applying the repeat violator status, particularly for highly complex industrial sites.

We would suggest amending 30 TAC § 60.2(f): “Same nature” is defined as violations that involve the same equipment and root cause. This revision aligns with TCEQ’s existing practice of evaluating repeat Title V violations and addresses the Sunset Report’s recommendation regarding common patterns of noncompliance and TWC § 7.00251, which emphasizes root cause analysis for repeat violations.

The Associations propose reducing the points assigned to moderate violations in 30 TAC § 60.2(f) from 10 to 5 points. The proposed 10-point value, combined with the broad definition of moderate violations (e.g., any unauthorized emission), could lead to repeat violator status for sites with minimal, infrequent emissions events. For example, three one-hour emissions events annually could trigger repeat violator status, despite not indicating habitual noncompliance as highlighted in the Sunset Report’s examples of facilities with over 40 emissions events.

We would propose revising 30 TAC § 60.2(f)(2) to read as follows:

Assign 5 points for each moderate violation.

This adjustment allows for a more balanced threshold that reflects true compliance issues without penalizing sites for minor, corrected events.

We also request that the repeat violator status threshold be increased to 250 points for highly complex industrial sites with 30 or more complexity points. Moreover, the repeat violator point thresholds should be applied separately for each environmental media as required by TWC § 5.754(c)(2)(B). The proposal’s current language does not clarify whether the points are aggregated across media (e.g., air and water combined) or evaluated per media, which could lead to unfair classifications.

We would suggest adding to 30 TAC § 60.2(f)(3):

A person is a repeat violator at a site when the number of repeat violation points for the same environmental media is: (A) Equal to or greater than 250 for sites with 30 or more complexity points; or (B) 150 for sites with 15 to 29 complexity points; or (C) Equal to or greater than 100 for sites with less than 15 complexity points.

This ensures compliance with statutory requirements and prevents over-application of repeat violator status.

The Associations propose adding a process in 30 TAC § 60.2 to allow reclassification of less complex sites (15 or fewer complexity points) from unsatisfactory to satisfactory status when a single violation causes the unsatisfactory designation. Low-complexity sites, such as upstream production facilities, can trigger unsatisfactory status from a single emissions event, which does not reflect overall poor performance.

We propose adding 30 TAC § 60.2(g)(3)(A)(v):

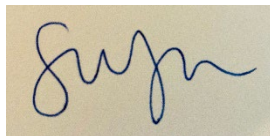
Demonstration by a site with 15 or fewer complexity points that its unsatisfactory status was due to a single violation that was corrected on or before the date it was classified as an unsatisfactory performer.

This provides a clear mechanism for the executive director to adjust classifications for outlier events while maintaining discretion.

Finally, the Associations request that only moderate and minor violations occurring after September 1, 2023, be considered for repeat violator status, as SB 1397's amendments to the Texas Water Code took effect on that date. Including earlier violations would violate Texas Government Code § 311.022 and principles of due process.

In conclusion, the Associations greatly appreciate TCEQ's efforts to refine its compliance history framework and urges adoption of these targeted revisions to ensure fairness, statutory compliance, and accurate reflection of site performance. We know significant work has been undertaken to get here and we look forward to any questions the rule team might have.

Respectfully,

A handwritten signature in blue ink on a light-colored rectangular background. The signature is cursive and appears to read "Wroe Jackson".

Wroe Jackson
General Counsel
Texas Association of Manufacturers

A handwritten signature in black ink. The signature is cursive and appears to read "Logan Harrell".

Logan Harrell
General Counsel & Director of Regulatory Affairs
Texas Chemistry Council

A handwritten signature in black ink. The signature is cursive and appears to read "Cory Pomeroy".

Cory Pomeroy
Vice President & General Counsel
Texas Oil & Gas Association