

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.102. Coastal Management Program.

- (a) **Consistency requirement.** If a transmission service provider or electric utility's request for a certificate of convenience and necessity includes transmission or generation facilities located, either in whole or in part, within the coastal management program boundary as defined in 31 T.A.C. §503.1, the transmission service provider or electric utility shall state in its initial application that: "This application includes facilities located within the coastal management program boundary as defined in 31 T.A.C. §503.1." In addition, the transmission service provider or electric utility shall indicate in its application whether any part of the proposed facilities are seaward of the Coastal Facility Designation Line as defined in 31 T.A.C. §19.2(a)(21) and identify the type (or types) of Coastal Natural Resource Area (or Areas) using the designations in 31 T.A.C. §501.3(b), that will be impacted by any part of the proposed facilities. The commission may grant a certificate for the construction of generating or transmission facilities within the coastal boundary as defined in 31 T.A.C. §503.1 only when it finds that the proposed facilities are consistent with the applicable goals and policies of the Coastal Management Program specified in 31 T.A.C. §501.14(a), or that the proposed facilities will not have any direct and significant impacts on any of the applicable coastal natural resource areas specified in 31 T.A.C. §501.3(b).
- (b) **Thresholds for review.** If the proposed facilities exceed the thresholds for referral to the Coastal Coordination Council established in this section, then, in its order approving the certificate of convenience and necessity, the commission shall describe the proposed facilities and their probable impact on the applicable coastal resources specified in 31 T.A.C. §501.14(a) in the findings of fact and conclusion of law. These findings should also identify the goals and policies applied and an explanation of the basis for the commission's determination that the proposed facilities are consistent with the goals and policies of the Coastal Management Program or why the action does not adversely affect any applicable coastal natural resource specified in 31 T.A.C. §501.14(a).
- (1) **Generating facilities.** In accordance with 31 T.A.C. §505.26, certificates for generating facilities subject to subsection (a) of this section may be referred to the Coastal Coordination Council for review pursuant to 31 T.A.C. §505.32 if any part of the generating facilities certificated are located seaward of the Coastal Facility Designation Line as defined in 31 T.A.C. §19.2(a)(21) and within:
- (A) coastal historic areas as defined in 31 T.A.C. §501.3(b)(2);
 - (B) coastal preserve as defined in 31 T.A.C. §501.3(b)(3);
 - (C) coastal shore areas as defined in 31 T.A.C. §501.3(b)(4);
 - (D) coastal wetlands as defined in 31 T.A.C. §501.3(b)(5);
 - (E) critical dune areas as defined in 31 T.A.C. §501.3(b)(6);
 - (F) critical erosion areas as defined in 31 T.A.C. §501.3(b)(7);
 - (G) Gulf beaches as defined in 31 T.A.C. §501.3(b)(8);
 - (H) hard substrate reefs as defined in 31 T.A.C. §501.3(b)(9);
 - (I) oyster reefs as defined in 31 T.A.C. §501.3(b)(10);
 - (J) submerged lands as defined in 31 T.A.C. §501.3(b)(12);
 - (K) submerged aquatic vegetation as defined in 31 T.A.C. §501.3(b)(13); or
 - (L) tidal sand and mud flats as defined in 31 T.A.C. §501.3(b)(14).
- (2) **Transmission facilities.** In accordance with 31 T.A.C. §505.26, certificates for transmission facilities subject to subsection (a) of this section may be referred to the Coastal Coordination Council for review pursuant to 31 T.A.C. §505.32 if any part of the transmission facilities certificated are located within Coastal Barrier Resource System Units or Otherwise Protected Areas seaward of the Coastal Facility Designation Line as defined in 31 T.A.C. §19.2(a)(21) and within:

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§25.102(b)(2) continued

- (A) coastal wetlands as defined in 31 T.A.C. §501.3(b)(5);
 - (B) critical dune areas as defined in 31 T.A.C. §501.3(b)(6);
 - (C) Gulf beaches as defined in 31 T.A.C. §501.3(b)(8);
 - (D) hard substrate reefs as defined in 31 T.A.C. §501.3(b)(9);
 - (E) oyster reefs as defined in 31 T.A.C. §501.3(b)(10);
 - (F) special hazard areas as defined in 31 T.A.C. §501.3(b)(11);
 - (G) submerged aquatic vegetation as defined in 31 T.A.C. §501.3(b)(13); or
 - (H) tidal sand and mud flats as defined in 31 T.A.C. §501.3(b)(14).
- (c) **Register of certificates subject to the Coastal Management Program.** The executive director of the commission or the executive director's designee shall maintain a record of all certificates subject to the Coastal Management Program and provide a copy of the record to the Coastal Coordination Council on a quarterly basis.
- (d) **Notice.**
- (1) **Notice of receipt.** When publishing notice of receipt of an application identified by the applicant as subject to the Coastal Management Program, the commission shall include the following statement: "This application includes facilities subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies."
 - (2) **Notice to the Coastal Coordination Council.** The commission shall place the secretary of the Coastal Coordination Council on the service list for any proceeding involving an application subject to the Coastal Management Program.