

(2) provide notice of its intent to hold a public hearing on proposed recommendations for resolution of the conflict by publishing notice of the proposed change in the Texas Register and in a newspaper of general circulation in each county located in whole or in part in the RWPA's involved in the dispute 30 days before the public hearing and by mailing notice of the public hearing 30 days before public hearing to those persons or entities listed in §357.21(d) of this title (relating to Notice and Public Participation) in the RWPA's proposed to be impacted, and to each county judge of a county located in whole or in part in the RWPA's proposed to be impacted and to each affected RWPG;

(3) hold a public hearing on the proposed recommendation for resolution of the conflict at a time and place determined by the EA. At the hearing, the EA shall take comments from the RWPGs, Political Subdivisions, and members of the public on the issues identified by the Board as unresolved problems; and

(4) make a recommendation to the Board for resolution of the conflict.

(c) The Board shall consider the EA's recommendation and any written statements by a representative for each affected RWPG and determine the resolution of the conflict. The Board's decision is final and not appealable.

(d) The EA shall notify affected RWPGs of Board's decision and shall direct changes to the affected RWPGs, to be incorporated in accordance with Texas Water Code §16.053(h)(6).

§357.64. *Conflicts Between Regional Water Plans and Groundwater Management Plans.*

(a) A groundwater conservation district may file a written petition with the EA stating that a potential conflict exists between the district's approved management plan developed under Texas Water Code §36.1071 (relating to Management Plans) and the approved State Water Plan. A copy of the petition shall be provided to the affected RWPG. The petition must state:

- (1) the specific nature of the conflict;
- (2) the specific sections and provisions of the approved management plan and approved State Water Plan that are in conflict; and
- (3) the proposed resolution to the conflict.

(b) If the EA determines a conflict exists, the EA will provide technical assistance to and coordinate with the groundwater conservation district and the affected RWPG to resolve the conflict. Coordination may include any of the following processes:

- (1) requiring the RWPG to respond to the petition in writing;
- (2) meeting with representatives from the groundwater conservation district and the RWPG to informally mediate the conflict; and/or
- (3) coordinating a formal mediation session between representatives of the groundwater conservation district and the RWPG.

(c) If the parties do not reach resolution, the EA will recommend a resolution to the conflict to the Board within 60 days of the date the mediation is completed. Notice shall be provided at least 15 days prior to the date of the Board meeting to discuss the proposed resolution. The Board may:

- (1) revise an approved RWP; and
- (2) revise a district's approved management plan.

(d) If the Board requires a revision to the groundwater conservation district's approved management plan, the Board shall provide information to the groundwater conservation district on what revisions are required and why. The groundwater conservation district shall prepare any revisions to its plan based on the information provided by the Board and hold, after notice, at least one public hearing at a central location readily accessible to the public within the district. The groundwater conservation district shall consider all public and Board comments, prepare, revise, and adopt its plan, and submit the revised plan to the Board pursuant to Chapter 356 of this title (relating to Groundwater Management). If the groundwater conservation district disagrees with the decision of the Board, the district may appeal the decision to a district court in Travis County, Texas.

(e) If the Board requires a revision to the approved RWP, the Board shall provide information to the RWPG on what revisions are required and why. The RWPG shall prepare the revisions as a major amendment to their approved RWP pursuant to §357.51(b) of this title. The RWPG shall hold, after notice, at least one public hearing at some central location readily accessible to the public within the regional water planning area.

(f) At the Board's discretion, the Board shall include in the State Water Plan a discussion of the conflict and its resolution.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Todd Chenoweth

General Counsel

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For further information, please call: (512) 463-7686



CHAPTER 363. FINANCIAL ASSISTANCE PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

The Texas Water Development Board ("TWDB" or "board") proposes amendments to 31 Texas Administrative Code (TAC) §§363.2, 363.41, 363.51, and 363.71, relating to construction contracts requirements for iron and steel.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED AMENDMENT.

The TWDB proposes to amend various provisions in 31 TAC Chapter 363 to implement legislative changes from Senate Bill (SB) 1289, 85th Legislative Session, and to provide greater clarity. These legislative changes relate to required construction contract language for the use of iron and steel products produced in the United States. The specific proposed amendments and the reasons for those proposed amendments are discussed in more detail below. Concurrent with the review of these proposed amendments, TWDB has proposed a draft guidance documents with further detail and explanation. This draft guidance may be found at <http://www.twdb.texas.gov/financial/index.asp> and comments on the guidance may be submitted to public-comment@twdb.texas.gov.

SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.

Division 1. Introductory Provisions.

§363.2. Definitions of Terms.

The definition of financial assistance is updated to include the State Water Implementation Fund for Texas and State Water Implementation Revenue Fund for Texas.

Division 4. Prerequisites to Release of State Funds.

§363.41. Engineering Design Approvals.

Section 363.41 is amended to only require two, rather than three copies of contract documents. This change is made to conform rule language to TWDB practice.

Section 363.41 is amended to add definitions of "iron and steel products," "manufacturing process," "mechanical and electrical components, equipment, systems and appurtenances," "political subdivision," "produced in the United States," and "project" to further explain the requirements of the section. These new definitions will assist in determining whether certain requirements or exceptions apply and will implement legislative changes enacted by SB 1289.

Section 363.41 is amended to reflect legislative changes enacted by SB 1289. The proposed amendments incorporate language from updated Texas Water Code §17.183 and new Texas Government Code, Chapter 2252, Subchapter F. The proposed amendments in §363.41(b)(3) require political subdivisions and persons with projects funded with financial assistance from the board to include language in certain contracts and bid documents requiring that any iron or steel products produced through a manufacturing process used in the project be produced in the United States. This requirement applies to bid documents submitted to the board and construction contracts entered into after September 1, 2017. The requirements do not apply to funding through the State Water Implementation Fund for Texas or State Water Implementation Revenue Fund for Texas where the board has adopted a resolution approving an application for financial assistance before May 1, 2019, for any portion.

Section 363.41 is also amended to include exemptions to this requirement and a description of certain items that are not "iron or steel products" for purposes of this section. The TWDB will issue guidance to address the procedures for implementing certain exemptions. These exemptions include situations where the board or Executive Administrator makes a determination that iron or steel products produced in the United States to be used in the project are not produced in sufficient quantities, reasonably available, or of a satisfactory quality. The requirements do not apply if the board or Executive Administrator determines that the use of iron or steel products produced in the United States will increase the total cost of the project by more than 20 percent or if complying with the requirements is inconsistent with the public interest. While Texas Government Code §2252.203 assigns the responsibility for making exemption determinations to the governing body of the governmental entity, by this proposed rule, the Board intends to initially delegate this decision to the Executive Administrator so that this decision can be made quickly as projects are being implemented. Those persons dissatisfied by the Executive Administrator's decision have the option of seeking a final determination by the Board.

Mechanical and electrical components, equipment, systems, and appurtenances are not considered iron or steel products.

As to electrical components, this proposed rule is consistent with new Texas Government Code §2252.203(b). As to mechanical components, this proposed rule is consistent with Environmental Protection Agency's guidance under a similar federal program, and it is the board's opinion that it is consistent with the intent of the statute. Additionally, the requirements only apply to iron or steel products that are permanently incorporated into a project.

The proposed rules restrict these exemption determinations to the board and Executive Administrator because Texas Government Code §2252.203 provides that the exemptions are to be determined by "the governing body of the governmental entity responsible for the project." "Governmental entity" is specifically defined by the statute as "this state or a board, commission, department, office, or other agency in the executive branch of state government." Furthermore, "the term does not include a political subdivision," which is defined in that statute to include "a county, municipality, municipal utility district, water control and improvement district, special utility district, and other types of water district." The TWDB requests comments on whether any type of applicant for TWDB funding would qualify as a "governmental entity" under this statute and thus be empowered to make its own exemption determinations.

The proposed rule states that entities receiving financial assistance from the TWDB for projects, as defined in the section, must obtain Executive Administrator approval of contract documents, including engineering plans and specifications and bid documents.

Section 363.41 applies to certain state-funded TWDB programs, including the Water Assistance Fund, the Water Loan Assistance Fund, the Storage Acquisition Program, the Colonia Self-Help Program, the Disadvantaged Rural Communities Program, the Water Infrastructure Fund, the State Water Implementation Fund for Texas and State Water Implementation Revenue Fund for Texas, the State Participation Program, the Development Fund (including water supply projects, water quality enhancement projects, flood control projects, and the Economically Distressed Areas Program), the Revenue Bond Program, and the Groundwater District Loan Program. Through 31 TAC §384.1, §363.41 also applies to the Rural Water Assistance Fund. The requirements also apply to the Agricultural Water Conservation Program. This section does not apply to the TWDB's federally-funded programs, the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund. The TWDB is of the opinion that the federal requirements preempt state law for these federal programs. The specific applicability to TWDB programs will be further explained and discussed in guidance to be distributed by the TWDB.

Division 5. Construction Phase.

§363.51. Inspection During Construction.

Section 363.51 is amended in order to provide greater clarity and to implement certain terminology changes. The changes are made for consistency purposes and to conform terminology in the rules to TWDB practice.

Division 6. Post-Construction Responsibilities.

§363.71. General Responsibilities.

Section 363.71 is amended in order to provide greater clarity and to implement certain terminology changes. The changes are made for consistency purposes and to conform terminology in the rules to TWDB practice.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS

Ms. Rebecca Trevino, Chief Financial Officer, has determined that there may be a fiscal impact to local governments that choose to utilize financial assistance provided by the TWDB as a result of the rulemaking. Local governments who construct, alter, or remodel a building, structure, or infrastructure through TWDB financial assistance may see an increased cost estimated up to 20 percent of the total project costs due to potential increased costs for iron and steel products. No local governments are required to utilize the financial assistance provided by the TWDB. Therefore, these potential increased costs are not required and are not imposed on any local government. For the first five years these rules are in effect, there is no expected mandatory additional cost to state or local governments resulting from their administration. However, as mentioned, for the first five years these rules are in effect, there is a possibility for increased project costs when the rule's requirements are applied. If potential borrowers choose to seek financial assistance for these projects elsewhere, they may see an increased cost in the financial assistance due to higher interest rates and lack of grant funds. The potential for increased costs can only be determined through actually bidding these projects for foreign-made iron and steel versus iron and steel produced in the United States. The TWDB has not conducted this type of analysis.

These rules are not expected to result in reductions in costs to either state or local governments. There is no expected reduction in costs for state or local governments because the proposed rule clarifies already-existing requirements or adds requirements for the use of iron and steel. These rules are not expected to have any impact on state or local revenues. The rules do not require any increase in expenditures for state or local governments as a result of administering these rules because no state or local governments are required to utilize financial assistance provided by the TWDB. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these rules.

Because these rules will not impose a cost on regulated persons, the requirement included in Texas Government Code Section 2001.0045 to repeal a rule does not apply; local governments are not required to utilize financial assistance provided by the TWDB. Furthermore, the requirement in Texas Government Code Section 2001.0045 does not apply because these rules are necessary to implement legislation.

The board invites public comment regarding this fiscal note. Written comments on the fiscal note may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

PUBLIC BENEFITS AND COSTS

Ms. Rebecca Trevino also has determined that for each year of the first five years the proposed rulemaking is in effect, the public will benefit from the rulemaking as it is intended to implement legislative changes and provide greater clarity to those seeking and receiving financial assistance from the board.

LOCAL EMPLOYMENT IMPACT STATEMENT

The board has determined that a local employment impact statement is not required because the proposed rule does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect because it will impose no new requirements on local economies. The board also has de-

termined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of enforcing this rulemaking. The board also has determined that there is no anticipated economic cost to persons who are required to comply with the rulemaking as proposed. Therefore, no regulatory flexibility analysis is necessary.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225, and determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to implement legislative changes and provide greater clarity to those seeking and receiving financial assistance from the board.

Even if the proposed rule were a major environmental rule, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: 1) does not exceed any federal law; 2) does not exceed an express requirement of state law; 3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and 4) is not proposed solely under the general powers of the agency, but rather Texas Water Code §6.101 and Texas Government Code §2252.202. Therefore, this proposed rule does not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

The board invites public comment regarding this draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

TAKINGS IMPACT ASSESSMENT

The board evaluated this proposed rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to implement legislative changes and provide greater clarity to those seeking and receiving financial assistance from the board. The proposed rule would substantially advance this stated purpose by incorporating new statutory language into rule language, updating internal references regarding TWDB financial assistance programs, and including definitions for terminology used in rule language.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this proposed rule because this

is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that provides financial assistance for the construction of water, wastewater, flood control, and other related projects.

Nevertheless, the board further evaluated this proposed rule and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of this proposed rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, this rule requires compliance with state construction contract requirements without burdening or restricting or limiting an owner's right to property and reducing its value by 25% or more. Therefore, the proposed rule does not constitute a taking under Texas Government Code, Chapter 2007.

GOVERNMENT GROWTH IMPACT STATEMENT

The board reviewed the proposed rulemaking in light of the government growth impact statement requirements of Texas Government Code §2001.0221 and has determined, for the first five years the proposed rule would be in effect, the proposed rule will not: (1) create or eliminate a government program; (2) require the creation of new employee positions or the elimination of existing employee positions; (3) require an increase or decrease in future legislative appropriations to the agency; (4) require an increase or decrease in fees paid to the agency; (5) create a new regulation; (6) expand, limit, or repeal an existing regulation; (7) increase or decrease the number of individuals subject to the rule's applicability; or (8) positively or adversely affect this state's economy. The proposed rule will implement new requirements for certain financial assistance provided by the board required by legislative changes.

SUBMISSION OF COMMENTS

Written comments on the proposed rulemaking may be submitted by mail to Mr. Todd Chenoweth, Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, by email to rulescomments@twdb.texas.gov, or by fax to (512) 475-2053. Comments will be accepted until 5:00 p.m. on January 31st, 2018.

ANNOUNCEMENT OF HEARING

The board will hold a public hearing on this proposal on January 11, in Room 170, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701 at 1:30 p.m. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon. Open discussion and questions to the board will not be permitted during the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Merry Klowner at (512) 463-8165 as far in advance as possible, and no later than five (5) work days prior to the hearing so that appropriate arrangements can be made.

DIVISION 1. INTRODUCTORY PROVISIONS

31 TAC §363.2

STATUTORY AUTHORITY

This rulemaking is proposed under the authority of Texas Water Code §6.101 and Texas Government Code §2252.202.

Texas Water Code Chapters 15, 16, and 17 and Texas Government Code Chapter 2252 are affected by this rulemaking.

§363.2. Definitions of Terms.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Words defined in the Texas Water Code, Chapter 15, 16 or 17, and not defined here shall have the meanings provided by the appropriate Texas Water Code chapter.

(1) - (14) (No change.)

(15) Financial assistance--Loans, grants, or state acquisition of facilities by the board pursuant to the Texas Water Code, Chapters 15, Subchapters B, C, E, G, H, O, P, and Q; Chapter 16, Subchapters E, and F; Chapter 17, Subchapters D, F, G, I, K, and L; and Chapter 36, Subchapter L.

(16) - (25) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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DIVISION 4. PREREQUISITES TO RELEASE OF STATE FUNDS

31 TAC §363.41

STATUTORY AUTHORITY

This rulemaking is proposed under the authority of Texas Water Code §6.101 and Texas Government Code §2252.202.

Texas Water Code Chapters 15, 16, and 17 and Texas Government Code Chapter 2252 are affected by this rulemaking.

§363.41. Engineering Design Approvals.

(a) An applicant with a commitment of financial assistance from the board [~~A political subdivision~~] shall obtain Executive Administrator [~~executive administrator~~] approval of contract documents, including engineering plans and specifications and bid documents, prior to receiving bids and awarding construction contracts [~~the contract~~]. The applicant [~~political subdivision~~] shall submit two [~~three~~] copies of contract documents, which shall be as detailed as would be required for submission to contractors bidding on the work, and which shall be consistent with the engineering feasibility information submitted with the application. An additional copy of the contract documents is required for water supply projects requiring commission review. The contract documents must contain the following:

(1) provisions assuring compliance with the board's rules and all relevant statutes;

(2) provisions providing for the political subdivision to retain a minimum of 5.0% of the progress payments otherwise due to the contractor until the building of the project is substantially complete and a reduction in the retainage is authorized by the executive administrator;

(3) a contractor's act of assurance form to be executed by the contractor which shall warrant compliance by the contractor with all laws of the State of Texas and all rules and published policies of the board; and

(4) any additional conditions that may be requested by the executive administrator.

(b) Engineering Design Approvals for those Projects Required to use Iron or Steel Products Produced in the United States.

(1) This section applies to Projects with the board and resulting bid documents submitted to the board or construction contracts entered into after September 1, 2017.

(2) In this section, the following terms have the assigned meanings:

(A) Iron and steel products--the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials.

(B) Manufacturing Process--The application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product functionally different from a finished product produced merely from assembling the materials into a product or elements into a product.

(C) Mechanical and electrical components, equipment, systems, and appurtenances--Includes pumps, motors, gear reducers, drives (including variable frequency drives), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, dewatering equipment, electrical supports/covers/shielding, and other appurtenances related to an electrical system necessary for operation or concealment. An electrical system includes all equipment, facilities, and assets owned by an electric utility, as that term is defined in §31.002 Utilities Code.

(D) Political subdivision--Includes a county, municipality, municipal utility district, water control and improvement district, special utility district, and other types of water districts, including those created under Texas Constitution Article III, Section 52 or Article XVI, Section 59, and nonprofit water supply corporations created and operating under Texas Water Code, Chapter 67.

(E) Produced in the United States--With respect to iron or steel products, a product for which all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

(F) Project--A contract between the board and a person or political subdivision.

(3) Political subdivisions and persons with Projects funded with financial assistance from the board shall obtain Executive Administrator approval of contract documents, including engineering plans and specifications and bid documents, prior to receiving bids and awarding construction contracts. Contract documents and bid documents provided to all bidders must include language requiring that any iron or steel products produced through a manufacturing process used in the Project, be produced in the United States, specifically where funds will be used to:

(A) construct, remodel, or alter buildings, structures, or infrastructure; or

(B) supply a material for a project between the board and a person or a political subdivision; or

(C) finance, refinance, or provide money from funds administered by the board for a project.

(c) Exemptions.

(1) Section 363.41(b)(3) does not apply if the board or Executive Administrator has made a determination that:

(A) iron or steel products, produced in the United States, to be used in the Project are not:

(i) produced in sufficient quantities; or

(ii) reasonably available at the time contract documents and bid documents are executed with contractors or subcontractors; or

(iii) of a satisfactory quality to be used in the Project;
or

(B) the use of iron or steel products produced in the United States will increase the total cost of the Project by more than 20 percent; or

(C) complying with the use of iron or steel products as required by this section is inconsistent with the public interest.

(2) The following components are exempt from complying with §363.41(b)(3) as they are not iron or steel products:

(A) mechanical and electrical components, equipment, systems, and appurtenances; and

(B) iron or steel products that are not permanently incorporated into a Project.

(d) Section 363.41(b) does not apply where the board has adopted a resolution approving an application for financial assistance before May 1, 2019, for any portion of financing as described by §15.432 or §15.472, Water Code.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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DIVISION 5. CONSTRUCTION PHASE

31 TAC §363.51

STATUTORY AUTHORITY

This rulemaking is proposed under the authority of Texas Water Code §6.101 and Texas Government Code §2252.202.

Texas Water Code Chapters 15, 16, and 17 and Texas Government Code Chapter 2252 are affected by this rulemaking.

§363.51. *Inspection During Construction.*

After the construction contract is awarded, an applicant receiving financial assistance from the board [~~the political subdivision~~] shall provide for adequate inspection of the project under the supervision of a registered professional engineer and require the engineer's assurance that the work is being performed in a satisfactory manner in accordance with the approved plans and specifications, other engineering design or permit documents, approved alterations, and provisions for environmental mitigative measures. The executive administrator is authorized to conduct site visits regarding [~~inspect~~] the construction and materials of any project at any time, but such site visits [~~inspection~~] shall never subject the State of Texas to any action for damages. The political subdivision shall take corrective action necessary to complete the project in accordance with approved plans and specifications.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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DIVISION 6. POST-CONSTRUCTION RESPONSIBILITIES

31 TAC §363.71

STATUTORY AUTHORITY

This rulemaking is proposed under the authority of Texas Water Code §6.101 and Texas Government Code §2252.202.

Texas Water Code Chapters 15, 16, and 17 and Texas Government Code Chapter 2252 are affected by this rulemaking.

§363.71. *General Responsibilities.*

(a) After the satisfactory completion of the project, the political subdivision shall be held responsible by the board for the continued compliance with all representations and assurances made to the board. To protect the state's monetary investment and the public inter-

est, the executive administrator is authorized to conduct site visits of [~~inspect~~] the project and review operational and financial records. Certified copies of all documents relating to the operation of the project and compliance with agreements relating to board financial assistance shall be provided as requested.

(b) Should any information obtained by the executive administrator indicate noncompliance with any agreements, the executive administrator shall require the political subdivision to take timely corrective action. Failure to correct problems may be cause for referral to the attorney general.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER D. APPRAISAL REVIEW BOARD

34 TAC §9.805

The Comptroller of Public Accounts proposes new §9.805, concerning appraisal review board evidence exchange and retention and audiovisual equipment requirements. The addition of §9.805 is to implement legislative changes to Tax Code, §41.45 (Hearing on Protest), which the 85th Legislature, 2017, enacted through passage of Senate Bill (SB) 1286, SECTIONS 1, 5, 6, and 8.

The new section proposes to adopt the manner and form in which property owners or their agents and appraisal districts exchange materials for use at appraisal review board hearings that allows the appraisal review board to retain the materials as part of the board's hearing record. The new section also proposes to specify requirements for the audiovisual equipment an appraisal district may make available for use by a property owner or the property owner's agent at an appraisal review board hearing.

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposed new rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not