Texas Water Development Board
P.O. Box 13231, 1700 N. Congress Ave.
Austin, TX 78711-3231, www.twdb.texas.gov
Phone (512) 463-7847, Fax (512) 475-2053

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Les Trobman, General Counsel
Jessica Zuba, Deputy Executive Administrator, Water Supply & Infrastructure

FROM: Temple McKinnon, Manager, Regional Water Planning

DATE: July 1, 2016

SUBJECT: Proposed Rulemaking – 31 Texas Administrative Code Chapter 357 relating to Regional Water Planning Guidelines

ACTION REQUESTED

Authorize publication of the proposed amendments to 31 Texas Administrative Code (TAC) Chapter 357 relating to Regional Water Planning Guidelines.

BACKGROUND

The purpose of the proposed amendments is to implement legislative changes from Senate Bill (SB) 1101, House Bill (HB) 3357 and HB 30, 84th Legislative Session, and HB 4, 83rd Legislative Session; improve the planning process and increase flexibility in planning; reduce certain unessential reporting requirements; address stakeholder concerns raised during the previous planning cycle; and clarify rules and refine definitions to make them more understandable and user-friendly.

In October 2015, a stakeholder process was initiated to review, revise, adopt, and repeal the associated state and regional water planning rules contained in 31 TAC Chapters 357 and 358. Texas Water Code 16.051(d) requires the Board to coordinate with the Texas Commission on Environmental Quality (TCEQ), the Texas Department of Agriculture (TDA), and the Texas Parks and Wildlife Department (TPWD) to review its administrative rules for regional and state water planning at least every five years. A meeting with these agencies was held March 7, 2016 and comments received have been considered during the development of the proposed amendments.

On February 22, 2016, the Deputy Executive Administrator sent a letter soliciting input to all voting members of regional water planning groups, representatives of RWPG-designated political subdivisions, consultants involved in regional water planning, and representatives of organizations with interests in water, including environmental organizations and the Texas Alliance of Groundwater Districts. Comments were received through May 23, 2016. The

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To provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas

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proposed amendments to Chapter 357 were developed with consideration given to comments received.

KEY ISSUES

31 TAC Chapter 357:
Significant proposed changes to this chapter include the following topics:

- Definitions were added and revised to clarify existing regional water planning terminology and requirements including:
    - A revision to the definition of "Water User Group" to clarify the term for utility-based planning as delineated by water provider service areas to be utilized during the development of the 2021 Regional Water Plans.
    - A revision to the definition of "Water Management Strategy" and an addition of the definition "Water Management Strategy Project" to clarify what regional water planning groups are to prioritize after the development of their regional water plan and for SWIFT eligibility purposes.
- Notice requirements are revised to implement changes consistent with House Bill 3357, 84th Legislative Session.
- Impacts on public health, safety, or welfare were added as factors for consideration by a regional water planning group in the development of its plan to implement changes consistent with Senate Bill 1101, 84th Legislative Session.
- Certain reporting requirements in the regional water plan are clarified or reduced and the term "Major Water Provider" is defined as part of this change.
- Evaluation of surface water availability and existing supply are clarified.
- Evaluation of groundwater availability is revised for regional water planning areas without groundwater conservation districts to implement changes consistent with Senate Bill 1101, 84th Legislative Session.
- Evaluation of groundwater availability is revised for regional water planning areas with groundwater conservation districts to allow for temporary increases in annual availability, for planning purposes, above the modeled available groundwater values by application of a MAG peak factor.
- A new section for prioritization of water management strategy projects to implement changes consistent with House Bill 4, 83rd Legislative Session.

31 TAC Chapter 358:
Based upon results from coordination with TCEQ, TDA, and TPWD, as well as preliminary stakeholder comments received, no changes to Chapter 358 are proposed at this time.

RECOMMENDATION
The Executive Administrator recommends approval of this item.

Attachment: Preamble and Proposed Amendments to 31 TAC Chapter 357.

The Texas Water Development Board ("TWDB" or "board") proposes amendments to §§357.10 – 357.12, 357.20 - 357.22, 357.30 - 357.35, 357.40, 357.42 - 357.45, 357.50, 357.51, 357.60, 357.62, and 357.64, relating to the regional water planning process. New §357.46 is proposed.

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

The purpose of the amendments is to implement legislative changes from Senate Bill (SB) 1101, 84th Legislative Session, House Bill (HB) 4, 83rd Legislative Session, and HB 3357 and HB 30, 84th Legislative Session; improve the planning process and increase flexibility in planning; reduce certain unessential reporting requirements; address stakeholder concerns raised during the previous planning cycle; standardize language; and clarify rules and refine definitions to make them more understandable and user-friendly. The specific provisions being amended or added and the reasons for the amendments are addressed in more detail below.

SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.

Subchapter A. General Definitions.

Section 357.10. Definitions and Acronyms

The proposed amendments to 31 Texas Administrative Code (TAC) §357.10 (relating to Definitions and Acronyms) proposes multiple changes to existing definitions and definitions for multiple new terms, as well as capitalization of defined terms as reflected throughout the proposed chapter revision. The amended and new definitions are intended to clarify the meanings of terms commonly used in the regional and state water planning process. The section has been re-numbered to reflect the addition of new definitions.

The definition of "Agricultural Water Conservation" is added to clarify this commonly-used water management strategy (WMS) in the state and regional water plans. Title 31 TAC §363.1302 defines agricultural water conservation, and the proposed amendment references that definition.

The definition of "Availability" is revised to clarify its meaning and distinguish "Availability" from "Existing Water Supply". The distinction being that availability is the total amount of raw water that could be produced from a source during drought of record conditions, while existing water supply is the amount of that water that is physically and legally available for use by a water user group (WUG).

The discussion of "consistency between a regional water plan (RWP) and a desired future condition" is relocated to 31 TAC §357.32(d)(1) and adds references to a modeled available groundwater (MAG) peak factor. The current definition requires an existing water supply or a recommended WMS to not exceed modeled available groundwater to be consistent. The proposed amendment modifies the measure of consistency to include a MAG peak factor greater than the modeled available groundwater value or to allow for other availability

estimates where there is no modeled available groundwater value or where 31 TAC §357.32(d)(2) applies.

The definition of “County-Other” is revised to accommodate the revised definition of “Water User Group” under the approach of utility-based planning as delineated by water provider service areas.

The definition of "Drought Management Water Management Strategy" is added to clarify the term as used in practice since regional water planning groups (RWPGs) evaluate and recommend drought management measures as quantified strategies in RWPs.

The definition of "Drought of Record" is revised to add the words "historical records indicate that" and "would have" to clarify that a drought of record is based on historical records and modeling that indicate a period of least amount of water supply.

The definition of "Existing Water Supply" is revised to clarify its meaning and more clearly distinguish it from "Availability". The distinction being that availability is the total amount of raw water that could be produced from a source during drought of record conditions, while existing water supply is the amount of that water that is physically and legally available for use by a WUG.

The definition of "Firm Yield" is revised to specify that a firm yield calculation must assume that applicable permit conditions are met. Adding this requirement is consistent with the firm yield definition in Texas Commission on Environmental Quality rules, 30 TAC §297.1(20). The definition is also amended to replace the word "reasonable" with "anticipated" before "sedimentation rates" because "anticipated" more accurately describes the use of sedimentation rates in the planning process due to its predictive nature.

The definition of "Major Water Provider", or "MWP", is added to define this category of water supplier. A MWP is a significant public or private WUG or wholesale water provider (WWP), whose significance is determined by the RWPG, and provides water for any water use category in a regional water planning area (RWPA). Major water provider is defined because it is a category of water provider that is proposed to be used for reporting purposes in regional and state water planning instead of previous WWP-based reporting requirements. Wholesale water providers were previously defined based upon a static volumetric threshold of water supplied that resulted in fluctuations in categories during each planning cycle due to changes in reported annual water use. The revision gives RWPGs more flexibility in deciding on which large water provider they want to report information in their RWPs and facilitates the use of a single, stable list of entities.

The definition "Modeled Available Groundwater (MAG) Peak Factor" is added, along with an amendment to §357.32(d), to provide flexibility in planning for groundwater availability while ensuring consistency with long-term desired future conditions and integrity of the planning process. The definition specifies that a MAG peak factor would be expressed as a percentage of modeled available groundwater (e.g., greater than 100 percent) and would represent the quantified annual groundwater availability temporarily available, for planning purposes. The

MAG peak factor may accommodate anticipated fluctuations in pumping between wet and dry periods or may account for other shifts in the timing of pumping while remaining consistent with desired future conditions. This is a quantified groundwater availability for pumping, not permitting, to be utilized for planning purposes only and is not intended as a limit to permits.

The definition of "Planning Decades" is added to clarify the significance of demands, supplies, needs, and strategy volumes as reported in regional and state water plans (2020, 2030, 2040, etc.). The new definition clarifies that data associated with a particular year represent conditions occurring in that single year. A WMS associated with a particular decade year “snapshot” (e.g. 2030) in a regional or state water plan would come online before or in that year.

The definition of “RWPG-Estimated Groundwater Availability” is added along with an amendment to §357.32(d) to implement changes required by Senate Bill (SB) 1101, 84th Legislative Session (relating to the Authority to Determine the Supply of Groundwater in and Potential Impacts on Public Health of Certain Regional Water Plans) and to reflect the planning practice of groundwater availability estimation for areas where no desired future condition has been adopted. Senate Bill 1101 amended Texas Water Code (TWC), §16.053(e)(2-a) to require an RWPG with no groundwater conservation districts (GCDs) within its regional water planning area (RWPA) to determine the supply of groundwater for regional planning purposes.

The definition of "Reuse" is added to clarify this commonly-used WMS in the state and regional water plans. Board rule, 31 TAC §363.1302(14), defines reuse, and the proposed amendment references that definition to make it consistent with the Board's State Water Implementation Fund for Texas (SWIFT) rules.

The definition of "State Water Planning Database" is added to explain that the database, maintained by TWDB, is used to collect, store, and disseminate regional and state water planning data such as population, water demand projections, existing water supplies, WMSs, and capital projects.

The definition of "Unmet Water Need" is added to clarify the portion of a water need that is not met by recommended WMSs in a regional or state water plan. The new definition of "Unmet Water Need", along with the new definition for "Water Need", are intended to clarify the use of these terms in the water planning process.

The definition of "Water Conservation Measures" is revised to add language from the definition of "Water Conservation" in 31 TAC §363.1302(18) to make it more consistent with the Board's State Water Implementation Fund for Texas rules. The amendment also adds new language to clarify that, for planning purposes, water conservation measures do not include projects that develop new supplies, such as new reservoirs or aquifer storage and recovery projects. This clarification is proposed to reduce confusion regarding the delineation between strategies or projects which conserve existing supplies and strategies or projects that develop new supplies, for example, by storing water for later use.

The definition of "Water Conservation Plan" is revised to remove the words "more than" from the first sentence because those words are redundant and inconsistent with the language in TWC, §11.1271. The revised definition also adds a period at the end of the first sentence.

The definition of "Water Conservation Strategy" is added to discuss a WMS that saves quantified volumes of water using water conservation measures.

The definition of "Water Demand" is added to discuss the volume of water that a WUG would require during drought of record conditions for its anticipated domestic, public, and/or economic activities.

The definition of "Water Management Strategy", or "WMS", is revised to remove the words "or specific project" to distinguish between a "Water Management Strategy" and a "Water Management Strategy Project", which is defined in proposed §357.10(39). The revision is intended to clarify that a strategy is a plan to meet a water need of a WUG, which may or may not require capital projects to be implemented.

The definition of "Water Management Strategy Project", or "WMSP", is added to distinguish between a "Water Management Strategy Project" and a "Water Management Strategy". As discussed above, a water management strategy is a plan to meet a water need; however, a water management strategy project is an infrastructure project that may be required to implement a water management strategy. The proposed definition specifies that water management strategy projects have non-zero capital costs and would develop, deliver, or treat additional water supply volumes, or conserve water for water user groups or wholesale water suppliers. The proposed definition also clarifies that one water management strategy project may be associated with multiple WMSs. For example, the construction of a single reservoir project may support multiple water user group strategies that use that new supply.

The definition of "Water Need" is added to explain the difference between projected water demands and existing water supplies. When existing water supply is less than the projected demand, there is the potential for a water shortage, or water need. The new definition for water need is intended to clarify the use of the term in the water planning process.

The definition of "Water User Group", or "WUG", is revised to be more consistent across all municipal water users and to reflect a utility-based planning approach. The current definition qualifies municipal water user groups on both a population threshold (500) for cities and a different, volumetric threshold (280 acre-feet) for non-city water utilities, creating a significant disparity between the size thresholds of the included entities. The revision would create a single, standard, volume-based criterion of 100 acre-feet per year for all municipal retail water utilities owned by a public or non-profit organization (not including private investor-owned utilities). The proposed 100-acre-foot threshold is designed to put rural and urban municipal use on an even footing regarding who is planned for and to increase the rural population that is planned for in discreet water user groups, as opposed to being classified as county-other. The 100-acre-foot threshold will result in what is considered a manageable increase in the number of WUGs for which population and water demands must be projected for by the agency and planned for by RWPGs using existing resources.

The proposed rule also adds the 100 acre-feet per year criteria for privately-owned utilities that request inclusion as a water user group. Under this proposed revision, the 100 acre-feet per year requirement is for each owned water system and must be for municipal use. Additionally, the associated RWPG must concur with the request for inclusion. This change is proposed as §357.10(41)(B).

The proposed rule also adds the 100 acre-feet per year criteria for institutions or facilities that request inclusion as a municipal water user group, with the associated RWPG required to concur with the request for inclusion. This change is proposed as §357.10(41)(C).

The proposed rule also amends the definition of WUG to require that the inclusion of a collective reporting unit as water user group must be requested by the RWPG. This change is proposed as §357.10(41)(D).

The definition of "Wholesale Water Provider", or "WWP", is revised to eliminate the annual 1,000 acre-foot delivery or sales threshold and stipulate that the RWPG will determine the wholesale water providers in its region. The definition also inserts language to specify that a wholesale water provider may deliver or sell treated or raw wholesale water to water user groups or other wholesale water providers. The intent of this proposed revision is to provide flexibility to RWPGs and to clarify how wholesale water providers are designated.

Subchapter B. Guidance Principles and Notice Requirements

Section 357.21. Notice and Public Participation

Section 357.21 is revised to implement changes consistent with HB 3357, 84th Legislative Session. HB 3357 (relating to Permitted Methods for Certain Political Subdivisions to Post Notice of a Meeting) amended Texas Government Code, §551.053(a) and (c), allowing a political subdivision or district to post notice of its meetings on its website as an alternative to providing notice to the county clerk of the county in which its administrative offices are located, which was the previous statutory requirement. While an RWPG is not a political subdivision or district, the administrators for the planning groups are, and a number of them had asked for flexibility in notice requirements.

Subsection 357.21(b)(4) is revised to add the words “in writing” to clarify that notice to RWPG members, and to people and entities who have requested notice, must be made in writing, which includes by email notification. As a result of this change, the words "either in writing or email as requested by the person or entity" are removed from §357.21(b)(4)(B) because they are no longer necessary. Subsection 357.21(b)(4) is also amended to remove Subsection (C), which requires the RWPG to provide notice to each county clerk in the regional water planning area (RWPA). The removal of Subsection (C) is proposed to make the rule consistent with HB 3357, which gives a political subdivision or district the option to give notice to the county clerk in the county where its administrative offices are located, or post the notice on its website.

Subsection 357.21(b)(5)(A) is revised to add language allowing an RWPG to post its meeting notice and agenda on its website or the website of the host political subdivision - or to provide the notice and agenda in writing to the county clerk of the county in which the administrative offices of the political subdivision are located and to remove the option for an RWPG to post its meeting notice and agenda on the board's website instead of its own.

Subsection 357.21(c)(4) is revised to add the words “in writing” to clarify that notice to RWPG members, and to people and entities who have requested notice, must be made in writing. As a result of this change, the words "either in writing or email as requested by the person or entity" are removed from §357.21(c)(4)(B) because they are no longer necessary. Subsection 357.21(c)(4) is also amended to remove Subsection (C), which requires the RWPG to provide notice to each county clerk in the RWPA. The removal of Subsection (C) is proposed to make the rule consistent with HB 3357, which gives a political subdivision or district the option to give notice to the county clerk in the county where its administrative offices are located, or post the notice on its website.

Subsection 357.21(c)(5)(A) is revised to add language allowing an RWPG to post its meeting notice and agenda on its website or the website of the host political subdivision - or to provide the notice and agenda in writing to the county clerk of the county in which the administrative offices of the political subdivision is located and to remove the option for an RWPG to post its meeting notice and agenda on the board's website instead of its own.

Subsection 357.21(d)(1) is revised to remove the words "requesting research and planning funds from the board" so the notice requirements in §357.21(d) would no longer apply to that action. Subsections 357.21(d)(2)(B) and 357.21(d)(4) are also proposed to be removed for the same reason. The words "as follows:" are proposed to be removed and §357.21(d)(2)(A) is consolidated into §357.21(d)(2), since the proposed deletion of §357.21(d)(2)(B) would eliminate the need for a list. Subsection 357.21(d) is proposed to be re-numbered to accommodate the deletions. Before rule amendments were made in August 2012, requesting research and planning funds did not require that notice be posted on the Secretary of State's website or in the *Texas Register*. The 2012 rule amendments inadvertently added those posting requirements, and this proposed amendment would remove them. To specify the notice requirements for requesting research and planning funds from the board, the board proposes to add new §357.21(e), which will be discussed below.

Subsection 357.21(d)(5) is revised by renumbering it to §357.21(d)(4) and by substituting the words "electronic media" for the words "an electronic disc, or drive" in the list of acceptable formats. The term electronic media is proposed to be inserted because it is a catch-all term for future formats that may be used by an RWPG to transmit copies of an initially prepared plan (IPP). Electronic media includes electronic discs or drives, so this proposed change does not limit the use of those formats, but instead, expands the present or future formats that may be used. The format used is still limited by the capability of the facility being provided the IPP. Subsection 357.21(d)(4) is also revised to add the words "through an electronic web link" to the list of acceptable formats that an RWPG may use to provide copies of its IPP. As with the other proposed revisions to the list of acceptable formats, the intent is to expand the present and future formats that may be used. Subsection 357.21(d)(4) is also revised to specify that the

public inspection requirement only applies to IPPs. This change is proposed to clearly reflect the statutory requirement in TWC, §16.053(i).

Subsection 357.21(d)(7) is renumbered to §357.21(d)(6) and revised to add language to proposed §357.21(d)(6)(A) allowing an RWPG to post its meeting notice and agenda on its website or the website of the host political subdivision - or to provide the notice and agenda in writing to the county clerk of the county in which the administrative offices of the political subdivision is located and remove the option for an RWPG to post its meeting notice and agenda on the board's website instead of its own.

Section 357.21 is revised to add new §357.21(e) designating notice requirements for RWPGs that are requesting research and planning funds from the board. Rule changes in August 2012 inadvertently required that notice of RWPG requests for research and planning funds from the board be posted on the Secretary of State's website and in the *Texas Register*. The intent of the proposed change is to restore the previous notice requirements.

Section 357.22. General Considerations for Development of Regional Water Plans

Subsection 357.22(a) is revised to implement a change to TWC, §16.053(e)(5)(A), made by SB 1101, 84th Legislative Session (relating to the Authority to Determine the Supply of Groundwater in and Potential Impacts on Public Health of Certain Regional Water Plans). The SB 1101 change to §16.053(e)(5)(A) requires that each RWPG must submit an RWP that includes consideration of potential impacts on public health, safety, or welfare in the state. Subsection 357.22(a) is revised to reflect the change to §16.053(e)(5)(A) by inserting "potential impacts on public health, safety, or welfare" into the list of factors considered by the RWPG in developing its plan as §357.22(a)(13) and the list is renumbered to reflect the addition. Other proposed rule changes resulting from SB 1101 are discussed below in §357.32.

Subchapter C. Planning Activities for Needs Analysis and Strategy Recommendations

Section 357.30. Description of the Regional Water Planning Area

Subsection 357.30(4) is revised to change the requirement from identifying “wholesale water providers” to identifying “major water providers”. The revision gives RWPGs more flexibility in deciding on which large water providers they want to report information in their regional water plans.

Section 357.31. Projected Population and Water Demands

Subsection 357.31(b) is revised to require RWPGs to report projected water demands for MWPs instead of WWPs. The proposed rule would also remove the requirements that RWPGs report projected water demands of WWPs for each county or portion of a county in the RWPA and for each river basin within each county or portion of a county. This change is proposed to clarify and ensure consistency of reporting requirements in the RWPs and to remove nonessential reporting.

The revision would also change the RWPG's requirement from "report" to "evaluate" regarding contractual obligations of WUGs and WWPs beyond the projected demands for those entities. This change is proposed to retain required analysis during plan development yet remove nonessential reporting requirements associated with proposed changes to §357.31(b).

Subsection 357.31(d) is revised to change the requirement from "determine and report" to only "report" how changes in plumbing fixtures would affect municipal water demands. In practice, the effects of plumbing code savings are currently determined by the TWDB, and RWPGs only report them in the RWP. The proposed change is intended to more accurately reflect actual practice and expectations.

The proposed rule would also change §357.31(f) reporting requirements for projections to present data for MWPs rather than WWPs. This change is proposed to clarify and ensure consistency of reporting requirements in the RWPs and to remove nonessential reporting.

Section 357.32. Water Supply Analysis

Subsection 357.32(c) is revised to reorganize, improve, and clarify the requirements and specify how evaluations of run of river surface water (water available for diversion when stream flow levels are sufficient) should be conducted in line with planning practice. Language regarding evaluation of existing stored surface water is moved from the beginning of §357.32(c) to new §357.32(c)(1) and the word "stored" is added to clarify that the requirement applies to stored water. Subsection 357.32(c)(2) is added to specify that evaluation of existing run of river surface water availability for municipal WUGs must be based on the minimum monthly diversion amounts that are available 100% of the time, if that run of river supply is the only supply for the municipal WUG. The revision is intended to clarify and improve the requirements for evaluation of existing surface water supplies by RWPGs by specifying more realistic and sensible modeling criteria that must be followed in evaluating water supply during drought of record conditions.

Subsection 357.32(c) is revised to clarify water availability evaluation requirements for existing surface water. In the first sentence of proposed amended §357.32(c), the plural "analyses" is inserted to replace the singular "analysis" because RWPGs perform multiple water supply analyses in the development of the RWP. In the second sentence of revised §357.32(c), the words "as the default approach for evaluating existing supplies" are added at the beginning of the sentence to clarify that the listed assumptions are to be used unless a variance is approved by the EA.

Subsection 357.32(c) is revised to include the words "use anticipated sedimentation" as the default assumption that RWPGs should use in the evaluation of existing water supplies. Sedimentation is not considered in the unmodified TCEQ WAM Run 3, because it is not considered in permitting of water rights; however, the physical effects of sedimentation on the firm yield of surface water reservoirs is relevant for planning purposes and is consistent with the proposed definition in §357.10(15).

Subsection 357.32(c) is revised to include the words "better, more representative" to replace the word "other". The intent of this proposed change is to emphasize to RWPGs that they should use the best available site-specific information and the most appropriate modeling assumptions for planning. The RWPGs are encouraged to consider using assumptions that are appropriate for evaluating existing supplies in their planning areas. The words "and approved in writing by the EA" are included at the end of the last sentence of §357.32(c) to clarify and reinforce that using information different than that available from TCEQ requires written approval from the EA.

The availability requirements for existing supplies of stored and run of river water are split out from §357.32(c) as §357.32(c)(1) and §357.32(c)(2) respectively. Proposed §357.32(c)(2) clarifies that availability of existing run of river supplies for municipal WUGs with run of river supplies as their sole source of water will be based on minimum amounts available for diversion in 100% of months in the TCEQ Water Availability Model period of record.

Subsection 357.32(d) is revised to replace "Board" with “EA” in reference to issuance of modeled available groundwater volumes. The existing rule incorrectly states that modeled available groundwater volumes are issued by the board; the proposed change is intended to correct the statement.

A new Subsection 357.32(d)(1) is added to implement SB 1101. The new language states that the RWPG shall determine groundwater availability for planning purposes where applicable; the board shall review and approve that the availability is physically compatible with desired future conditions in relevant aquifers; and the EA shall use the board's groundwater availability models to conduct the physical compatibility review. The intent of the proposed rule is to implement SB 1101.

SB 1101, 84th Legislative Session (relating to the Authority to Determine the Supply of Groundwater in and Potential Impacts on Public Health in Certain Regional Water Plans), amended TWC, §16.053(e)(2-a) to require an RWPG with no GCDs within its RWPA to determine the supply of groundwater for regional planning purposes. The bill stipulates that the board shall review and approve that the groundwater supply determined by the RWPG is physically compatible with desired future conditions for the relevant aquifers in the groundwater management area (GMA) that are regulated by GCDs. The bill requires that the review of physical compatibility be done using the board's groundwater availability models. At this time, the bill only applies to the North East Texas RWPG (Region D) because it is the only RWPG in the state with no GCDs in its RWPA as of the date of this proposed revision.

Subsection 357.32(d)(3) is added to allow RWPGs to request use of a MAG peak factor to accommodate temporary increases in annual availability. TWC, §36.1132 requires management of groundwater production on a long-term basis which, in practice, may include variations in availability from year to year in response to relative wet and dry periods. Additionally, most of the modeled available groundwater values were developed for long-term average, not drought of record, conditions.

The new §357.32(d)(3) would allow RWPGs to request the application of a MAG peak factor, in the form of a percentage of a modeled available groundwater value (e.g., greater than 100 percent) to better reflect, for regional water planning purposes, the quantified, temporary, projected groundwater pumping. The MAG peak factor may accommodate anticipated fluctuations in pumping between wet and dry periods or may account for other shifts in the timing of pumping while remaining consistent with desired future conditions. The purpose of proposed new §357.32(d)(3) is to provide relief from the stricter limit on groundwater availability in current §357.32(d). The intent is to allow regional water plans to reflect more realistic groundwater pumping, where appropriate and approved by relevant regulatory or permitting districts, while maintaining consistency with the desired future conditions and maintaining the integrity of the planning process.

A MAG peak factor, requested under proposed §357.32(d)(3), would be submitted to the board in the form of a percentage of a modeled available groundwater value (e.g., greater than 100 percent). If approved, the MAG peak factor would be applied to the associated modeled available groundwater volume in the state water planning database to calculate the modified availability volume that would be used by RWPGs for planning.

Subsection 357.32(d)(3) states that the EA shall consider a request from an RWPG to apply a MAG peak factor. The proposed rule explains that the MAG peak factor must be expressed as a percentage (e.g., greater than 100 percent) of the modeled groundwater availability value to accommodate temporary increases in availability.

The new Subsection 357.32(d)(3)(A) stipulates that the request must include written concurrence from the GCD, or representatives of the groundwater management area, if no GCD exists. The new Subsection 357.32(d)(3)(B) requires that the request must also provide its technical basis, and the new Subsection 357.32(d)(3)(C) requires that the request must document how the temporary increase would not prevent the GCD from managing groundwater resources to achieve desired future conditions.

Subsection 357.32(g) is amended to change the reporting requirement for evaluation results under §357.31(a) and (b) from reporting by WUG and WWP to reporting by WUG and MWP.

Section 357.33. Needs Analysis: Comparison of Water Supplies and Demands

Section 357.33 is revised to clarify reporting requirements and ensure that RWPGs report and present surpluses, needs, and secondary needs for the most significant water suppliers as identified by the RWPGs.

Subsection 357.33(b) is revised to replace the requirement to report surpluses or needs for WWPs with MWPs. The requirement to report surpluses and needs for WUGs would remain unchanged.

Subsection 357.33(d) is revised to change reporting of results for WUGs and WWPs to reporting for WUGs and MWPs.

Subsection 357.33(e) is revised to change the requirement to present secondary water needs volumes from presenting for WUGs and WWPs to presenting for WUGs and MWPs.

Section 357.34. Identification and Evaluation of Potentially Feasible Water Management Strategies and Water Management Strategy Projects

Consistent with the proposed definition of "water management strategy project", Section 357.34 is revised to add "and Water Management Strategy Projects" to its title and add the words "and the WMSPs required to implement those strategies" to §357.34(a) to specifically require RWPGs to identify and evaluate WMSPs in RWPs. Similarly, the revision inserts the words "and associated WMSPs" in renumbered §357.34(e) and inserts the words "and WMSPs" in renumbered §357.34(f).

Subsection 357.34(c)(2) is revised to specify seawater and brackish groundwater as desalination WMSs that RWPGs must consider when identifying potentially feasible strategies during the development of RWPs. The proposed revision is to implement changes consistent with House Bill (HB) 30, 84th Legislative Session. HB 30 (relating to the Development of Seawater and Brackish Groundwater) which specifically requires that seawater desalination and brackish groundwater desalination be considered by RWPGs.

Subsection 357.34(d) is added to clarify that all recommended WMSs and WMSPs that are entered into the state water planning database and prioritized by RWPGs must reduce water consumption, reduce water loss or waste; improve water use efficiency; or develop, deliver, or treat additional water supply volumes to WUGs or WWPs in at least one planning decade such that during drought of record conditions water is available. The language also stipulates that WMSs that do not meet those requirements must be identified and presented separately in the RWP and are not eligible for SWIFT funding. Examples of WMSs and WMSPs that do not meet the requirements of §357.34(d) could include, but are not limited to, new retail distribution facilities that do not convey additional water supplies; new wells required to replace aging wells; and maintenance of, or upgrades to, existing equipment or facilities that do not increase volumetric water supply.

The intent of proposed §357.34(d) is to clarify a SWIFT eligibility requirement for WMSs and WMSPs and to accommodate the inclusion of WMSs or WMSPs to facilitate permitting or other activities associated with other agencies that may not conserve or develop supplies under drought of record conditions.

Subsection 357.34 is renumbered to accommodate the addition of §357.34(d).

Section 357.35. Recommended and Alternative Water Management Strategies and Water Management Strategy Projects

Section 357.35 is revised to add the words "and Water Management Strategy Projects" to the end of the title. The purpose of the proposed amendment is to require RWPGs to recommend WMSPs separately from WMSs.

Section 357.35 was also revised to add the text "and water management strategy projects required to implement them" and "and Water Management Strategy Projects" to §357.35(a).

Subsection 357.35(g)(1) is revised to remove the requirement to report WWP data split by river basins, counties, or RWPAs. This change is proposed to remove unessential reporting requirements in the RWPs.

Subsection 357.35(g)(2) is revised to change the term "safety factor" to "management supply factor" and clarify that the board calculates these values and provides them to the RWPGs to include in their RWPs for reporting purposes only.

Subchapter D. Impacts, Drought Response, Policy Recommendations, and Implementation

Section 357.40 Impacts of Regional Water Plan

Section 357.40(b) is revised to renumber references to correctly reflect revisions from Section 357.34.

Section 357.44. Infrastructure Financing Analysis

Section 357.44 is revised to add the words "and associated WMSPs" to specify that reporting of infrastructure financing must also include WMSPs.

Section 357.46. Prioritization of Projects by Regional Water Planning Groups

New Section 357.46 is added to require each RWPG to prioritize the recommended WMSPs in its RWP and submit the prioritization separately with its adopted RWP. The proposed new Section specifies that the prioritization of projects must be performed in accordance with the uniform standards developed by the stakeholder committee established under TWC, §15.436(c), in place at the time it adopts its RWP. Prioritization of WMSPs is necessary to implement HB 4, 83rd Legislative Session, which requires prioritization of recommended projects for SWIFT.

Subchapter E. Adoption, Submittal, and Amendments to Regional Water Plans

Section 357.50. Adoption, Submittal, and Approval of Regional Water Plans

Subsection 357.50(a) is revised to correctly reference the appropriate subsection of the rule.

Subsection 357.50(g)(2)(B) is revised to include the words "state water" in front of "planning" in the first sentence and insert "state water planning" in front of "database" in the second sentence. These changes are intended to specify that the rule refers to the state water planning database, as that term is defined in §357.10 of this rule revision.

A new Subsection §357.50(j) is added to address the inclusion of unmet municipal water needs in RWPs. The intent of the proposed new Subsection is to explain the basic elements that must be included in an RWP to justify including unmet municipal water needs. The rule requires that,

in order for the board to consider approval of an RWP with unmet municipal water needs, the RWP must provide adequate justification including: document that the RWPG considered all potentially feasible WMSs and explain why additional conservation and/or drought management were not recommended to address the need; describe how municipal WUGs will protect public health, safety, and welfare in a repeat of the drought of record; and explain whether the unmet municipal needs could be addressed with an amendment before the next IPP. The new Subsection is inserted after §357.50(i), as §357.50(j), and the rest of the Section re-numbered.

Section 357.51. Amendments to Regional Water Plans

Subsection 357.51(a)(2) is revised to include language to more explicitly describe how the board considers and acts upon a petition to amend an RWP, if the RWPG does not act upon the petition. The proposed amendment inserts language specifying that within 90 days after a request by a political subdivision, the RWPG is required to provide a written explanation to the EA if it does not amend its plan. The proposed amendment also inserts language specifying that at the public meeting, which is required by existing rule, the board may direct the RWPG to amend its RWP based on the local political subdivision's request.

Subsection 357.51(b) is revised by removing Subsection 357.51(b)(3)(B), which currently requires that a proposed major amendment shall not produce unmet needs to the adopted RWP. This proposed change is intended to make requirements for major amendments consistent with, and no more restrictive than, the requirements for adoption of the RWP, which may contain unmet needs. As a result of the deletion of §357.51(b)(3)(B), the rest of §357.51(b)(3) is renumbered.

Subsection 357.51(c)(1) is revised to remove the words "Minor Amendment to RWP" because they are unnecessary and redundant in the context of the rule language.

Subsection 357.51(c)(2) is revised to add a requirement specifying that a minor amendment "does not increase unmet needs or produce new unmet needs in the adopted RWP". The intent of this proposed new requirement is to distinguish minor amendments from major amendments and RWP adoption, both of which may include unmet needs. The new requirement is in §357.51(c)(2)(C), and the rest of the Subsection is renumbered.

Subsection 357.51(e) is revised to specify how RWPGs may substitute alternative WMSs for recommended WMSs. The board proposes to amend proposed §357.51(e) to insert the words "without over-allocating any source". The proposed change is intended to specify that when substituting an alternative WMS for a recommended WMS, the substitution cannot result in an over-allocation of a source in the same manner that sources may not be over-allocated in adopted plans.

Subchapter F. Consistency and Conflicts in Regional Water Plans

Section 357.60. Consistency of Regional Water Plans

Subsection 357.60(b)(1) is revised to replace the words "a current" with the words "an existing" because "an existing" is more accurately descriptive in the context of the rules and add the words "or water source" after the words "water supply" to clarify that a project can be an enhancement to an existing water source to meet the parameters for consistency with an RWP.

Subsection 357.60(b)(2) is revised to replace the word "and" with "or" because in practice a project only needs to meet one of the requirements to be considered consistent with an RWP. These amendments to §357.60(b) are intended to clarify the parameters for determining consistency of a project with an RWP.

Non-substantive changes are made to the following sections: §§357.11, 357.12, 357.20, 357.40, 357.42, 357.43, 357.45, 357.62, and 357.64, relating to the regional water planning process.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS

Ms. Cindy Demers, Chief Financial Officer, has determined that there will be no significant fiscal implications for state or local governments as a result of the proposed rulemaking. For the first five years these rules are in effect, there are not expected to be additional costs to state or local governments resulting from their administration.

These rules are expected to result in a minor reduction in costs to local governments. The reduction in costs is due to changes to notice requirements for RWPGs. The cost savings would be incurred by the RWPG-designated political subdivisions that hold regional water planning contracts. The savings would be allocated elsewhere in RWPG contracts. These rules are not expected to result in reductions in costs to state government.

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.

PUBLIC BENEFITS AND COSTS

Ms. Cindy Demers also has determined that for each year of the first five years the proposed rulemaking is in effect, there will be no impact to the public.

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 determined that there will be no adverse economic effect on small businesses or micro-businesses 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. These rules are designed to implement legislative changes, improve the planning

process and increase flexibility in planning, reduce certain unessential reporting requirements, and standardize and clarify language.

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, improve processes, increase flexibility, and provide greater clarity regarding the TWDB’s rules related to regional water planning.

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 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 §16.053. 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, improve processes, increase flexibility, and provide greater clarity regarding the TWDB’s rules related to regional water planning. The proposed rule would substantially advance this stated purpose by adding language related to legislative changes, clarifying definitions, and incorporating agency and stakeholder input into the TWDB rules related to regional water planning.

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 administers the regional water planning process in order to develop a state water plan.

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 law regarding the regional water planning process. Therefore, the proposed rule does not constitute a taking under Texas Government Code, Chapter 2007.

ANNOUNCEMENT OF HEARING

The board will hold a public hearing on this proposal on August 24, 2016, in Room 170, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701 at 1:00 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 Klonower 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.

SUBMISSION OF COMMENTS

Written comments on the proposed rulemaking may be submitted by mail to Mr. Les Trobman, 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 the 5:00 p.m. of the 31st day following publication the Texas Register.

STATUTORY AUTHORITY

This rulemaking is proposed under the authority of Texas Water Code §16.053.

The proposed rulemaking affects Chapter 16 of the Texas Water Code.

CHAPTER 357 REGIONAL WATER PLANNING

SUBCHAPTER A GENERAL INFORMATION

§357.10 Definitions and Acronyms

The following words, used in this chapter, have the following meanings.

(1) Agricultural Water Conservation--Defined in §363.1302 of this Title (relating to Definition of Terms).

(2)[~~(1)~~] Alternative Water Management Strategy[~~water management strategy~~]--A fully evaluated Water Management Strategy[~~water management strategy~~] that may be substituted into a Regional Water Plan [~~regional water plan~~] in the event that a recommended Water Management Strategy[~~water management strategy~~] is no longer recommended.

(3)[~~(2)~~] Availability--Maximum amount of raw water that could be produced by [~~available from~~] a source during a repeat of the Drought of Record [~~drought of record~~], regardless of whether the supply is physically [~~or legally~~] connected to or legally accessible by[~~available to~~] Water User Groups [~~water user groups~~].

(4)[~~(3)~~] Board--The Texas Water Development Board.

(5)[~~(4)~~] Collective Reporting Unit--A grouping of utilities located in the Regional Water Planning Area. Utilities within a Collective Reporting Unit must have a logical relationship, such as being served by common Wholesale Water Providers[~~wholesale water providers~~], having common sources, or other appropriate associations.

(6)[~~(5)~~] Commission--The Texas Commission on Environmental Quality.

[~~(6) Consistency between a regional water plan and a desired future condition--A regional water plan is consistent with a desired future condition if the groundwater availability amount in the regional water plan and on which an existing water supply or recommended water management strategy relies does not exceed the modeled available groundwater amount associated with the desired future condition for the relevant aquifers. The desired future condition must be either the desired future condition adopted as of the date the Board most recently adopted a state water plan or, at the option of the regional water planning group, a desired future condition adopted on a subsequent date.~~]

(7) County-Other [~~other~~]--An aggregation of [~~residential, commercial, and institutional water users in cities with less than 500 people or~~] utilities that provide less than an average of 100 acre-feet per year [~~250,000 gallons per day~~], as well as [~~unincorporated~~] rural areas not served by a water utility in a given county.

(8) Drought Contingency Plan[~~contingency plan~~]--A plan required from wholesale and retail public water suppliers and irrigation districts pursuant to Texas Water Code §11.1272 (relating

to Drought Contingency Plans for Certain Applicants and Water Right Holders). The plan may consist of one or more strategies for temporary supply and demand management and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies as required by the Commission.

(9) Drought Management Measures [~~management measures]~~--Demand management activities to be implemented during drought that may be evaluated and included as Water Management Strategies [~~water management strategies]~~.

(10) Drought Management Water Management Strategy--A drought management measure or measures evaluated and/or recommended in a State or Regional Water Plan that quantifies temporary reductions in demand during drought conditions.

(11)[~~(10)]~~ Drought of Record[~~record]~~--The period of time when historical records indicate that natural hydrological conditions would have provided the least amount of water supply.

(12)[~~(11)~~] Executive Administrator[~~administrator~~] (EA)--The Executive Administrator[~~executive administrator]~~ of the Board or a designated representative.

(13)[~~(12)~~] Existing Water Supply--Maximum amount of water [~~available from existing sources for use during drought of record conditions]~~ that is physically and legally accessible[~~available~~] from existing sources for immediate use by a Water User Group [~~water user group]~~ under a repeat of Drought of Record conditions.

(14)[~~(13)~~] Firm Yield--Maximum water volume a reservoir can provide each year under a repeat of the Drought of Record [~~drought of record]~~ using anticipated [~~reasonable~~] sedimentation rates and assuming that all senior water rights will be totally utilized and all applicable permit conditions met.

(15)[~~(14)~~] Interbasin Transfer of Surface Water--Defined and governed in Texas Water Code §11.085 (relating to Interbasin Transfers) as the diverting of any state water from a river basin and transfer of that water to any other river basin.

(16)[~~(15)~~] Interregional Conflict--An interregional conflict exists when:

(A) more than one Regional Water Plan [~~regional water plan]~~ includes the same source of water supply for identified and quantified recommended Water Management Strategies [~~water management strategies]~~ and there is insufficient water available to implement such Water Management Strategies [~~water management strategies]~~; or

(B) in the instance of a recommended Water Management Strategy [~~water management strategy]~~ proposed to be supplied from a different Regional Water Planning Area [~~regional water planning area]~~, the Regional Water Planning Group[~~RWPG~~] with the location of the strategy has studied the impacts of the recommended Water Management Strategy [~~water management strategy]~~ on its economic, agricultural, and natural resources, and demonstrates to the Board that there is a potential for a substantial adverse effect on the region as a result of

those impacts.

(17)[(~~16)~~] Intraregional Conflict--A conflict between two or more identified, quantified, and recommended Water Management Strategies [~~water management strategies~~] in the same Initially Prepared Plan [~~initially prepared plan~~] that rely upon the same water source, so that there is not sufficient water available to fully implement all Water Management Strategies [~~water management strategies~~] and thereby creating an over-allocation of that source.

(18)[(~~17)~~] Initially Prepared Plan (IPP)--Draft Regional Water Plan [~~regional water plans~~] that is[~~are~~] presented at a public hearing in accordance with §357.21(d) of this title (relating to Notice and Public Participation) and submitted for Board review and comment.

(19) Major Water Provider (MWP)--A Water User Group or a Wholesale Water Provider of particular significance to the region's water supply as determined by the Regional Water Planning Group. This may include public or private entities that provide water for any water use category.

(20) Modeled Available Groundwater (MAG) Peak Factor--A percentage (e.g., greater than 100 percent) that is applied to a modeled available groundwater value reflecting the annual groundwater availability that, for planning purposes, shall be considered temporarily available for pumping consistent with desired future conditions.

(21) Planning Decades--Temporal snapshots of conditions anticipated to occur and presented at even intervals over the planning horizon used to present simultaneous demands, supplies, needs, and strategy volume data. A Water Management Strategy that is shown as providing a supply in the 2040 decade, for example, is assumed to come online in or prior to the year 2040.

(22)[(~~18)~~] Political Subdivision--City, county, district, or authority created under the Texas Constitution, Article III, §52, or Article XVI, §59, any other Political Subdivision [~~political subdivision~~] of the state, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Texas Water Code Chapter 67 (relating to Nonprofit Water Supply or Sewer Service Corporations).

(23)[(~~19)~~] Regional Water Plan (RWP)--The plan adopted or amended by a Regional Water Planning Group [~~regional water planning group~~] pursuant to Texas Water Code §16.053 (relating to Regional Water Plans) and this chapter.

(24)[(~~20)~~] Regional Water Planning Area (RWPA)--Area designated pursuant to Texas Water Code §16.053.

(25)[(~~21~~)] Regional Water Planning Group (RWPG)--Group designated pursuant to Texas Water Code §16.053.

(26) RWPG-Estimated Groundwater Availability--The groundwater Availability used for planning purposes as determined by RWPGs to which §357.32(d)(2) of this title (relating to Water Supply Analysis) is applicable or where no desired future condition has been adopted.

(27)[~~(22)~~] Retail Public Utility--Defined in Texas Water Code §13.002 (relating to Water Rates and Services) as "any person, corporation, public utility, water supply or sewer service corporation, municipality, Political Subdivision [~~political subdivision~~] or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation."

(28) Reuse--Defined in §363.1302 of this Title (relating to Definition of Terms).

(29)[~~(23)~~] State Drought Preparedness Plan--A plan, separate from the State Water Plan [~~state water plan~~], that is developed by the Drought Preparedness Council for the purpose of mitigating the effects of drought pursuant to Texas Water Code §16.0551 (relating to State Drought Preparedness Plan).

(30)[~~(24)~~] State Drought Response Plan--A plan prepared and directed by the chief of the Texas Division of Emergency Management for the purpose of managing and coordinating the drought response component of the State Water Plan and the State Drought Preparedness Plan pursuant to Texas Water Code §16.055 (relating to Drought Response Plan).

(31)[~~(25)~~] State Water Plan--The most recent state water plan adopted by the Board under the Texas Water Code §16.051 (relating to State Water Plan).

(32) State Water Planning Database--Database maintained by TWDB that stores data related to population and Water Demand projections, water Availability, Existing Water Supplies, Water Management Strategy supplies, and Water Management Strategy Projects. It is used to collect, analyze, and disseminate regional and statewide water planning data.

(33) Unmet Water Need--The portion of an identified Water Need that is not met by recommended Water Management Strategies.

(34)[~~(26)~~] Water Conservation Measures--Practices, techniques, programs, and technologies that will protect water resources, reduce the consumption of water, reduce the loss or [~~of~~] waste of [~~or~~] water, or improve the efficiency in the use of water that may be presented as Water Management Strategies [~~water management strategies~~], so that a water supply is made available for future or alternative uses. For planning purposes, Water Conservation Measures do not include reservoirs, aquifer storage and recovery, or other types of projects that develop new water supplies.

(35) Water Conservation Strategy--A Water Management Strategy with quantified volumes of water associated with Water Conservation Measures.

(36)[(~~27~~)] Water Conservation Plan--The most current plan required by Texas Water Code §11.1271 (relating to Water Conservation Plans) from an applicant for a new or amended water rights permit and from any holder of a permit, certificate, etc. who is authorized to appropriate [~~more than~~] 1,000 acre-feet per year or more for municipal, industrial, and other non-irrigation uses and for those who are authorized to appropriate 10,000 acre-feet per year or more for irrigation, and the most current plan required by Texas Water Code §13.146 from a Retail

Public Utility [~~retail public utility~~] that provides potable water service to 3,300 or more connections. These plans must include specific, quantified 5-year and 10-year targets for water savings.

(37) Water Demand--Volume of water required to carry out the anticipated domestic, public, and/or economic activities of a Water User Group during drought conditions.

(38)[~~(28)~~] Water Management Strategy (WMS)--A plan [~~or specific project~~] to meet a need for additional water by a discrete Water User Group [~~user group~~], which can mean increasing the total water supply or maximizing an existing supply, including through reducing demands. A Water Management Strategy may or may not require associated Water Management Strategy Projects to be implemented.

(39) Water Management Strategy Project (WMSP)--Water project that has a non-zero capital costs and that when implemented, would develop, deliver, or treat additional water supply volumes, or conserve water for Water User Groups or Wholesale Water Providers. One WMSP may be associated with multiple WMSs.

(40) Water Need--A potential water supply shortage based on the difference between projected Water Demands and Existing Water Supplies.

(41)[~~(29)~~] Water User Group (WUG)--Identified user or group of users for which Water Demands[~~water demands~~] and Existing Water Supplies[~~water supplies~~] have been identified and analyzed and plans developed to meet Water Needs[~~water needs~~]. These include:

(A)[~~ Incorporated Census places of a population greater than 500, including select Census Designated Places, such as significant military bases or cases in which the Census Designated Place is the only Census place in the county;~~]

[~~(B)~~] Retail Public Utilities [~~public utilities~~] owned by a Political Subdivision providing more than 100[~~280~~] acre-feet per year for municipal use;

(B) Privately-owned utilities that request inclusion as an individual Water User Group, provide more than 100 acre-feet per year for municipal use for each owned water system, and are approved for inclusion as an individual Water User Group by the RWPG;

(C) Water systems serving institutions or facilities owned by the state or federal government that request inclusion as an individual Water User Group, provide more than 100 acre-feet per year for municipal use, and are approved for inclusion as an individual Water User Group by the RWPG;

(D)[~~(C)~~] Collective Reporting Units, or groups of retail public utilities that have a common association and are requested for inclusion by the RWPG;

(E)[~~(D)~~] Municipal and domestic water use, referred to as County-Other [~~county-other~~], not included in subparagraphs (A) – (D)[~~(C)~~] of this paragraph; and

(F)[~~(E)~~] Non-municipal water use including manufacturing, irrigation, steam electric power generation, mining, and livestock watering for each county or portion of a county in an[~~a~~] RWPA.

(42)[~~(30)~~] Wholesale Water Provider (WWP)--Any person or entity, including river authorities and irrigation districts, that delivers or sells water wholesale (treated or raw) to WUGs or other WWPs[~~has contracts to sell more than 1,000 acre-feet of water wholesale in any one year during the five years immediately preceding the adoption of the last regional water plan~~]. The RWPGs [~~regional water planning groups~~] shall determine the Wholesale Water Providers within each region[~~include as wholesale water providers other persons and entities that enter or that the regional water planning group expects or recommends to enter contracts to sell more than 1,000 acre-feet of water wholesale during the period covered by the plan~~].

§357.11 Designations

(a) The Board shall review and update the designations of RWPAs as necessary but at least every five years, on its own initiative or upon recommendation of the EA[~~executive administrator~~]. The Board shall provide 30 days notice of its intent to amend the designations of RWPAs by publication of the proposed change in the *Texas Register* and by mailing the notice to each mayor of a municipality with a population of 1,000 or more or which is a county seat that is located in whole or in part in the RWPAs proposed to be impacted, to each water district or river authority located in whole or in part in the RWPA based upon lists of such water districts and river authorities obtained from the Commission, and to each county judge of a county located in whole or in part in the RWPAs proposed to be impacted. After the 30 day notice period, the Board shall hold a public hearing at a location to be determined by the Board before making any changes to the designation of an[~~a~~] RWPA.

(b) If upon boundary review the Board determines that revisions to the boundaries are necessary, the Board shall designate areas for which RWPs[~~regional water plans~~] shall be developed, taking into consideration factors such as:

(1) River basin and aquifer delineations;

(2) Water utility development patterns;

(3) Socioeconomic characteristics;

(4) Existing RWPAs[~~regional water planning areas~~];

(5) Political Subdivision [~~subdivision~~] boundaries;

(6) Public comment; and

(7) Other factors the Board deems relevant.

(c) After an initial coordinating body for a RWPG[~~regional water planning group~~] is named by the Board, the RWPGs shall adopt, by two-thirds vote, bylaws that are consistent with provisions of this chapter. Within 30 days after the Board names members of the initial coordinating body, the EA[~~executive administrator~~] shall provide to each member of the initial coordinating body a set of model bylaws which the RWPG shall consider. The RWPG shall provide copies of its bylaws and any revisions thereto to the EA[~~executive administrator~~]. The bylaws adopted by the RWPG shall at a minimum address the following elements:

(1) definition of a quorum necessary to conduct business;

(2) method to be used to approve items of business including adoption of RWPs[~~regional water plans~~] or amendments thereto;

(3) methods to be used to name additional members;

(4) terms and conditions of membership;

(5) methods to record minutes and where minutes will be archived as part of the public record; and

(6) methods to resolve disputes between RWPG members on matters coming before the RWPG.

(d) RWPGs shall maintain at least one representative of each of the following interest categories as voting members of the RWPG. However, if an[~~a~~] RWPA does not have an interest category below, then the RWPG shall so advise the EA and no membership designation is required.

(1) Public, defined as those persons or entities having no economic interest in the interests represented by paragraphs (2) - (12) of this subsection other than as a normal consumer;

(2) Counties, defined as the county governments for the 254 counties in Texas;

(3) Municipalities, defined as governments of cities created or organized under the general, home-rule, or special laws of the state;

(4) Industries, defined as corporations, partnerships, sole proprietorships, or other legal entities that are formed for the purpose of making a profit and which produce or manufacture goods or services and which are not small businesses;

(5) Agricultural interests, defined as those persons or entities associated with production or processing of plant or animal products;

(6) Environmental interests, defined as those persons or groups advocating the conservation of the state's natural resources, including but not limited to soil, water, air, and living resources;

(7) Small businesses, defined as corporations, partnerships, sole proprietorships, or other legal entities that are formed for the purpose of making a profit, are independently owned and operated, and have fewer than 100 employees or less than $1 million in gross annual receipts;

(8) Electric generating utilities, defined as any persons, corporations, cooperative corporations, or any combination thereof, meeting each of the following three criteria: own or operate for compensation equipment or facilities which produce or generate electricity; produce or generate electricity for either wholesale or retail sale to others; and are neither a municipal corporation nor a river authority;

(9) River authorities, defined as any districts or authorities created by the legislature which contain areas within their boundaries of one or more counties and which are governed by boards of directors appointed or designated in whole or part by the governor or board, including, without limitation, San Antonio River Authority and Palo Duro River Authority;

(10) Water districts, defined as any districts or authorities, created under authority of either Texas Constitution, Article III, §52(b)(1) and (2), or Article XVI, §59 including districts having the authority to regulate the spacing of or production from water wells, but not including river authorities;

(11) Water utilities, defined as any persons, corporations, cooperative corporations, or any combination thereof that provide water supplies for compensation except for municipalities, river authorities, or water districts; and

(12) Groundwater management areas, defined as a single representative for each groundwater management area that is at least partially located within an[~~a~~] RWPA. Defined as a representative from a groundwater conservation district that is appointed by the groundwater conservation districts within the associated groundwater management area.

(e) The RWPGs shall add the following non-voting members, who shall receive meeting notifications and information in the same manner as voting members:

(1) Staff member of the Board to be designated by the EA;

(2) Staff member of the Texas Parks and Wildlife Department designated by its executive director;

(3) Member designated by each adjacent RWPG to serve as a liaison;

(4) One or more persons to represent those entities with headquarters located in another RWPA and which holds surface water rights authorizing a diversion of 1,000 acre-feet a year or more in the RWPA, which supplies water under contract in the amount of 1,000 acre-feet a year or more to entities in the RWPA, or which receives water under contract in the amount of 1,000 acre-feet a year or more from the RWPA; and

(5) Staff member of the Texas Department of Agriculture designated by its commissioner.

(f) Each RWPG shall provide a current list of its members to the EA; the list shall identify the interest represented by each member including interests required in subsection (d) of this section.

(g) Each RWPG, at its discretion, may at any time add additional voting and non-voting representatives to serve on the RWPG for any new interest category, including additional representatives of those interests already listed in subsection (d) of this section that the RWPG considers appropriate for water planning.

(h) Each RWPG, at its discretion, may remove individual voting or non-voting members or eliminate RWPG representative positions in accordance with the RWPG bylaws as long as minimum requirements of RWPG membership are maintained in accordance with subsection (d) of this section.

(i) RWPGs may enter into formal and informal agreements to coordinate, avoid conflicts, and share information with other RWPGs or any other interests within any RWPA for any purpose the RWPGs consider appropriate including expediting or making more efficient water planning efforts. These efforts may involve any portion of the RWPG membership. Any plans or information developed through these efforts by RWPGs or by committees may be included in an[~~a~~] RWP only upon approval of the RWPG.

(j) Upon request, the EA will provide technical assistance to RWPGs, including on water supply and demand analysis, methods to evaluate the social and economic impacts of not meeting needs, and regarding Drought Management Measures [~~drought management measures~~] and water conservation practices.

§357.12 General Regional Water Planning Group Responsibilities and Procedures

(a) Prior to the preparation for the RWPs, in accordance with the public participation requirements in §357.21 of this title (relating to Notice and Public Participation), the RWPGs shall:

(1) hold at least one public meeting to gather suggestions and recommendations from the public as to issues that should be addressed or provisions that should be included in the next regional or state water plan;

(2) prepare a scope of work that includes a detailed description of tasks to be performed, identifies responsible parties for task execution, a task schedule, task and expense budgets, and describes interim products, draft reports, and final reports for the planning process;

(3) approve any amendments to the scope of work only in an open meeting of the RWPG where notice of the proposed action was provided in accordance with §357.21 of this title; and

(4) designate a Political Subdivision [~~political subdivision~~] as a representative of the RWPG eligible to apply for financial assistance for scope of work and RWP development pursuant to Chapter 355, Subchapter C of this title (relating to Regional Water Planning Grants).

(b) An[~~A~~] RWPG shall hold a public meeting to determine the process for identifying potentially feasible WMSs [~~water management strategies~~]; the process shall be documented and shall include input received at the public meeting; after reviewing the potentially feasible strategies using the documented process, then the RWPG shall list all possible WMSs [~~water management strategies~~] that are potentially feasible for meeting a Water Need [~~need~~] in the region. The public meeting under this subsection shall be in accordance with the requirements of §357.21(b) of this title.

(c) If applicable, and approved by the EA, implement simplified planning in accordance with guidance to be provided by the EA. If an[~~a~~] RWPG determines in its analysis of Water Needs [~~water needs~~] that it has sufficient Existing Water Supplies[~~supplies~~] in the RWPA to meet Water Needs[~~water needs~~] for the 50-year planning period, RWPGs may conduct simplified regional water planning as follows:

(1) identify Existing Water Supplies[~~water supplies~~] that are available for voluntary redistribution in an[~~a~~] RWPA or to other RWPAs;

(2) where appropriate, adopt previous RWP or State Water Plan [~~state water plan~~] information, updated as necessary, as the RWP; and

(3) other activities upon approval of the EA necessary to complete an[~~a~~] RWP that meets rule and statute requirements.

SUBCHAPTER B GUIDANCE PRINCIPLES AND NOTICE REQUIREMENTS

§357.20 Guidance Principles for State and Regional Water Planning

Development of the State Water Plan [~~state water plan~~] and of RWPs shall be guided by the principles stated in §358.3 of this title (relating to Guidance Principles).

§357.21 Notice and Public Participation

(a) RWPGs shall conduct all business in meetings posted and held in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551, with a copy of all materials presented or discussed available for public inspection prior to and following the meetings and shall meet the additional notice requirements when specifically referenced as required under other subsections.

(b) All public notices required by this subsection shall comply with this section and shall meet the following requirements:

(1) These notice requirements apply to the following RWPG actions: regular RWPG meetings; amendments to the regional water planning scope of work or budget; process of identifying potentially feasible WMSs [~~water management strategies]~~; meetings to replace RWPG members or addition of new RWPG members; and adoption of RWPs [~~regional water plans]~~.

(2) Published 72 hours prior to the meeting.

(3) Notice shall include:

(A) a date, time, and location of the meeting;

(B) a summary of the proposed action to be taken; and

(C) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted.

(4) Entities to be notified in writing include:

(A) all voting and non-voting RWPG members; and

(B) any person or entity who has requested notice of[~~or~~] RWPG activities. [~~either in writing or email, as requested by the person or entity; and~~]

~~(C) each County Clerk, in writing, within the RWPA.~~

(5) Notice and agenda to be posted:

(A) On the website of the RWPG or host Political Subdivision[~~political subdivision~~]. In lieu of posting the meeting notice and agenda on the website of the RWPG or host Political Subdivision, the notice and agenda may be provided, in writing, to the County Clerk of the county in which the administrative office of the host Political Subdivision is located[~~ or on the Board website if requested by the RWPG~~]; and

(B) Texas Secretary of State website.

(6) Documents to be made available on the internet or in hard copy for public inspection prior to and following meeting include:

(A) Agenda of meeting; and

(B) Copies of all materials presented or discussed at the meeting.

(c) Notice under this subsection shall meet the following requirements:

(1) These notice requirements apply to the following RWPG actions: population projection and Water Demand [~~water demand]~~ projection revision requests to officially adopted Board projections; substitution of Alternative WMSs [~~alternative water management strategies]~~; and minor amendments to RWPs.

(2) Notice of meetings under this subsection shall be published/postmarked on the internet, emailed, and mailed to the public before the 14th day preceding the date of the meeting.

(3) Notice shall include:

(A) a date, time, and location of the meeting;

(B) a summary of the proposed action to be taken;

(C) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted; and

(D) information that the RWPG will accept written and oral comments at the meetings and information on how the public may submit written comments separate from such meetings. The RWPG shall specify a deadline for submission of public written comments of not earlier than 14 days after the meeting.

(4) Entities to be notified in writing include:

(A) all voting and non-voting RWPG members;

(B) any person or entity who has requested notice of RWPG activities [~~either in writing or email, as requested by the person or entity~~]; and

~~(C) each County Clerk, in writing, within the RWPA; and~~

(C)[~~(D)~~] each RWPG ~~County Clerk in counties outside the RWPA~~ where a recommended or Alternative WMS[~~alternative water management strategy~~] being considered would be located.

(5) Notice and associated meeting agenda to be posted:

(A) On the website of the RWPG or host Political Subdivision[~~political subdivision~~]. In lieu of posting the meeting notice and agenda on the website of the RWPG or host Political Subdivision, the notice and agenda may be provided, in writing, to the County Clerk of the county in which the administrative office of the host Political Subdivision is located[~~ or on the Board website if requested by the RWPG~~]; and

(B) Texas Secretary of State website.

(6) Documents to be made available on the internet or in hard copy for public inspection prior to and following meeting include:

(A) Agenda of meeting; and

(B) Copies of all materials, reports, plans presented or discussed at the meeting.

(7) Public comments to be accepted as follows:

(A) Written comments for 14 days prior to meeting with comments considered by RWPG

members prior to action;

(B) Oral and written public comment during meeting; and

(C) Written comments must also be accepted for 14 days following the meeting and all comments received during the comment period must be submitted to the Board by the RWPG.

(d) Notice under this subsection shall meet the following requirements:

(1) These notice requirements apply to the following RWPG actions: holding a preplanning public meeting to obtain public input on development of the next RWP; major amendments to RWPs; and holding hearings for IPPs[~~; and requesting research and planning funds from the Board~~].

(2) Notice shall be published in a newspaper of general circulation in each county located in whole or in part in the RWPA [~~as follows:~~]

[~~(A)~~] before the 30th day preceding the date of the public meeting or hearing.[~~; and~~]

[~~(B) when applying for Board funding, at least 30 days prior to Board consideration of funding applications.~~]

(3) Notice of the public meetings and public hearings shall include:

(A) a date, time, and location of the public meeting or hearing;

(B) a summary of the proposed action to be taken;

(C) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted; and

(D) information that the RWPG will accept written and oral comments at the hearings and information on how the public may submit written comments separate from such hearings. The RWPG shall specify a deadline for submission of public written comments as specified in paragraph (7)[~~(8)~~](A) of this subsection.

~~(4) If applying for Board funding, the notice shall include the name and address of the eligible applicant and the name of the applicant's manager or official representative; a brief description of the regional water planning area; the purposes of the planning project; the Board's name, address, and the name of a contact person with the Board; a statement that any comments must be filed with the EA and the applicant within 30 days of the date on which the notice is mailed or published. Prior to action by the Board, the applicant must provide one copy of the notice sent, a list of those to which the notice was sent, the date on which the notice was sent, copies of all notices as published showing name of the newspaper and the date on which the notice was published.~~

(4)[~~(5)~~] RWPGs shall make copies of the IPP available for public inspection at least 30 days before a public hearing required or held by providing a copy of the IPP in at least one public library in each county and either the county courthouse's law library, the county clerk's office, or some other accessible place within the county courthouse of each county having land in the RWPA and include locations of such copies in the notice for public hearing. For distribution of the IPP and adopted RWP, the RWPG may consult and coordinate with county and local officials in determining the most appropriate location in the county courthouse to ensure maximum accessibility to the public during business hours. Additionally, the RWPG may consult with local and county officials in determining which public library in the county can provide maximum accessibility to the public. According to the capabilities of the facility, the RWPG may provide the copy electronically, on electronic media[~~an electronic disc or drive~~], through an internet web link, or in hard copy. The RWPG shall make an effort to ensure ease of access to the public, including where feasible, posting the IPP on websites and providing notice of such posting. The public inspection requirement in this subsection applies only to IPPs; adopted RWPs are only required to be submitted to the Board pursuant to Texas Water Code, §16.053(i).

(5)[~~(6)~~] Notice shall be mailed to, at a minimum, the following:

(A) Notification of all entities that are to be notified under subsection (c)(4) of this section;

(B) Each mayor of a municipality with a population of 1,000 or more or which is a county seat that is located in whole or in part in the RWPA;

(C) Each county judge of a county located in whole or in part in the RWPA;

(D) Each special or general law district or river authority with responsibility to manage or supply water in the RWPA based upon lists of such water districts and river authorities obtained from the Commission;

(E) Additionally, for public hearings or meetings to obtain input on development of a future RWP or a meeting or hearing associated with IPPs or major RWP amendments:

(i) each Retail Public Utility [~~retail public utility~~], defined as a community water system, that serves any part of the RWPA or receives water from the RWPA based upon lists of such entities obtained from the Commission; and

(ii) each holder of record of a water right for the use of surface water the diversion of which occurs in the RWPA based upon lists of such water rights holders obtained from the Commission; and

(F) Additionally, an[~~a~~] RWPG that intends to request Board funds for regional water planning must provide written notice to all other RWPGs.

(6)[~~(7)~~] Notice and associated hearing and meeting agenda shall also be posted:

(A) On the website of the RWPG or host Political Subdivision[~~political subdivision~~]. In lieu of posting the meeting notice and agenda on the website of the RWPG or host Political Subdivision, the notice and agenda may be provided, in writing, to the County Clerk of the county in which the administrative office of the host Political Subdivision is located[~~ or on the Board website if requested by the RWPG~~];

(B) Texas Secretary of State website; and

(C) In the *Texas Register*.

(7)[~~(8)~~] Public comments to be accepted as follows:

(A) Written comments submitted immediately following 30-day public notice posting and prior to and during meeting or hearing; and

(i) Until not earlier than 30-days following the date of the public hearing on a major amendment to an[~~a~~] RWP.

(ii) Until not earlier than 60 days following the date of the public hearing on an IPP.

(B) Verbal public comments at the noticed meeting or hearing;

(C) Comments received must be considered as follows:

(i) Comments associated with hearings must be considered by RWPG members when adopting an[~~a~~] RWP or adopting a major amendment to an[~~a~~] RWP.

(ii) Comments associated with a preplanning meeting, scope of work development, and an application for funding to the Board must be considered prior to taking RWPG action.

(e) Notice under this subsection shall meet the following requirements:

(1) These notice requirements apply when an RWPG is requesting research and planning funds from the Board.

(2) Notice shall be published in a newspaper of general circulation in each county located in whole or in part in the RWPA at least 30 days prior to Board consideration of funding applications.

(3) Notice shall include the name and address of the eligible applicant and the name of the applicant's manager or official representative; a brief description of the RWPA; the purposes of the planning project; the Board's name, address, and the name of a contact person with the Board; a statement that any comments must be filed with the EA and the applicant within 30 days of the date on which the notice is mailed or published. Prior to action by the Board, the applicant must provide one copy of the notice sent, a list of those to which the notice was sent, the date on which the notice was sent, copies of all notices as published showing name of the

newspaper and the date on which the notice was published.

(4) Notice shall be mailed to, at a minimum, the following:

(A) Each mayor of a municipality with a population of 1,000 or more or which is a county seat that is located in whole or in part in the RWPA;

(B) Each county judge of a county located in whole or in part in the RWPA;

(C) Each special or general law district or river authority with responsibility to manage or supply water in the RWPA based upon lists of such water districts and river authorities obtained from the Commission; and

(D) All other RWPGs.

(5) Notice shall also be posted on the website of the RWPG or host Political Subdivision.

§357.22 General Considerations for Development of Regional Water Plans

(a) RWPGs shall consider existing local, regional, and state water planning efforts, including water plans, information and relevant local, regional, state and federal programs and goals when developing the RWP[~~regional water plan~~]. The RWPGs shall also consider:

(1) Water Conservation Plans [~~water conservation plans~~];

(2) drought management and Drought Contingency Plans[~~drought contingency plans~~];

(3) information compiled by the Board from water loss audits performed by Retail Public Utilities [~~retail public utilities~~] pursuant to §358.6 of this title (relating to Water Loss Audits);

(4) publicly available plans for major agricultural, municipal, manufacturing and commercial water users;

(5) local and regional water management plans;

(6) water availability requirements promulgated by a county commissioners court in accordance with Texas Water Code §35.019 (relating to Priority Groundwater Management Areas);

(7) the Texas Clean Rivers Program;

(8) the U.S. Clean Water Act;

(9) water management plans;

(10) other planning goals including, but not limited to, regionalization of water and wastewater services where appropriate;

(11) approved groundwater conservation district management plans and other plans submitted under Texas Water Code §16.054 (relating to Local Water Planning);

(12) approved groundwater regulatory plans; [~~and~~]

(13) potential impacts on public health, safety, or welfare; and

(14)[~~(13)~~] any other information available from existing local or regional water planning studies.

(b) The RWP shall contain a separate chapter for the contents of §§357.30, 357.31, 357.32, 357.33, 357.42, 357.43, 357.44, 357.45, and 357.50 of this title and shall also contain a separate chapter for the contents of §357.34 and §§357.35, 357.40 and 357.41 of this title for a total of eleven separate chapters.

SUBCHAPTER C PLANNING ACTIVITIES FOR NEEDS ANALYSIS AND STRATEGY RECOMMENDATIONS

§357.30 Description of the Regional Water Planning Area

RWPGs shall describe their RWPA[~~regional water planning area~~] including the following:

(1) social and economic aspects of a region such as information on current population, economic activity and economic sectors heavily dependent on water resources;

(2) current water use and major water demand centers;

(3) current groundwater, surface water, and Reuse[reuse] supplies including major springs that are important for water supply or protection of natural resources;

(4) Major Water Providers[~~wholesale water providers~~];

(5) agricultural and natural resources;

(6) identified water quality problems;

(7) identified threats to agricultural and natural resources due to water quantity problems or water quality problems related to water supply;

(8) summary of existing local and regional water plans;

(9) the identified historic drought(s) of record within the planning area;

(10) current preparations for drought within the RWPA;

(11) information compiled by the Board from water loss audits performed by Retail Public

Utilities [~~retail public utilities~~] pursuant to §358.6 of this title (relating to Water Loss Audits); and

(12) an identification of each threat to agricultural and natural resources and a discussion of how that threat shall[~~will~~] be addressed or affected by the WMSs [~~water management strategies~~] evaluated in the plan.

§357.31 Projected Population and Water Demands

(a) RWPs shall present projected population and Water Demands [~~water demands~~] by WUG as defined in §357.10 of this title (relating to Definitions and Acronyms). If a WUG lies in one or more counties or RWPA or river basins, data shall be reported for each river basin, RWPA, and county split.

(b) RWPs shall present projected Water Demands [~~water demands~~] associated with MWPs[~~WWPs~~] by category of water use, including municipal, manufacturing, irrigation, steam electric power generation, mining, and livestock for ~~[each county or portion of a county in~~]the RWPA. [~~If a county or portion of a county is in more than one river basin, data shall be reported for each river basin.~~]

(c) RWPs shall evaluate[~~report~~] the current contractual obligations of WUGs[~~WUG~~] and WWPs to supply water in addition to any demands projected for the WUG or WWP. Information regarding obligations to supply water to other users must also be incorporated into the water supply analysis in §357.32 of this title (relating to Water Supply Analysis) in order to determine net existing water supplies available for each WUG's own use.

(d) Municipal demands shall be adjusted to reflect water savings due to plumbing fixture requirements identified in the Texas Health and Safety Code, Chapter 372. RWPGs shall[~~will~~] [~~determine and~~] report how changes in plumbing fixtures would affect projected municipal Water Demands [~~water demands~~] using projections with plumbing code savings provided by the Board or by methods approved by the EA.

(e) Source of population and Water Demands [~~water demands~~]. In developing RWPs, RWPGs shall use:

(1) Population and Water Demand [~~water demand~~] projections developed by the EA that shall[~~will~~] be contained in the next State Water Plan [~~state water plan~~] and adopted by the Board after consultation with the RWPGs, Commission, Texas Department of Agriculture, and the Texas Parks and Wildlife Department.

(2) RWPGs may request revisions of Board adopted population or Water Demand ~~[water demand]~~ projections if the request demonstrates that population or Water Demand ~~[water demand]~~ projections no longer represents a reasonable estimate of anticipated conditions based on changed conditions and or new information. Before requesting a revision to population and Water Demand~~[water demand]~~ projections, the RWPG shall discuss the proposed revisions at a public meeting for which notice has been posted in accordance with §357.21(c) of this title

(relating to Notice and Public Participation). The RWPG shall summarize public comments received on the proposed request for projection revisions. The EA shall consult with the requesting RWPG and respond to their request within 45 days after receipt of a request from an[~~a~~] RWPG for revision of population or Water Demand[~~ water demand~~] projections.

(f) Population and Water Demand[~~water demand~~] projections shall be presented for each Planning Decade [~~planning decade~~] for WUGs and MWPs[~~each of the above reporting categories~~].

§357.32 Water Supply Analysis

(a) RWPGs shall evaluate:

(1) source water Availability[~~availability~~] during Drought of Record [~~drought of record~~] conditions; and

(2) existing water supplies that are legally and physically available to WUGs and wholesale water suppliers within the RWPA for use during the Drought of Record [~~drought of record~~].

(b) Evaluations shall consider surface water and groundwater data from the State Water Plan [~~state water plan~~], existing water rights, contracts and option agreements relating to water rights, other planning and water supply studies, and analysis of water supplies existing in and available to the RWPA during Drought of Record [~~drought of record~~] conditions.

(c) [~~Evaluation of the existing surface water available during drought of record shall be based on firm yield. The analysis may be based on justified operational procedures other than firm yield. The EA shall consider a written request from a RWPG to use procedures other than firm yield.~~] For surface water supply analyses[~~analysis~~], RWPGs shall[~~will~~] use most current Water Availability Models from the Commission to evaluate the adequacy of surface water supplies. As the default approach for evaluating existing supplies, RWPGs shall[~~will~~] use anticipated sedimentation and assume full utilization of existing water rights and no return flows when using Water Availability Models. RWPGs may use better, more representative,[~~other~~] water availability modeling assumptions or better site-specific information with written approval from the EA. Information available from the Commission shall be incorporated by RWPGs unless better site-specific information is available and approved in writing by the EA.

(1) Evaluation of existing stored surface water available during Drought of Record conditions shall be based on Firm Yield. The analysis may be based on justified operational procedures other than Firm Yield. The EA shall consider a written request from an RWPG to use procedures other than Firm Yield.

(2) Evaluation of existing run of river surface water available for municipal WUGs during Drought of Record conditions shall be based on the minimum monthly diversion amounts that are available 100 percent of the time, if those run of river supplies are the only supply for the municipal WUG.

(d) RWPGs shall use modeled available groundwater volumes for groundwater Availability[~~availability~~], as issued by the EA [~~Board~~], and incorporate such information in its RWP unless no modeled available groundwater volumes are provided. Groundwater Availability[~~availability~~] used in the RWP must be consistent with the desired future conditions as of the date the Board most recently adopted a State Water Plan [~~state water plan~~] or, at the discretion of the RWPG, established subsequent to the adoption of the most recent State Water Plan [~~state water plan~~].

(1) A RWP is consistent with a desired future condition if the groundwater Availability amount in the RWP and on which an Existing Water Supply or recommended WMS relies does not exceed the modeled available groundwater amount associated with the desired future condition for the relevant aquifers, in accordance with §357.32(d)(2) or as modified by §357.32(d)(3), if applicable. The desired future condition must be either the desired future condition adopted as of the date the Board most recently adopted a State Water Plan or, at the option of the RWPG, a desired future condition adopted on a subsequent date.

(2) If no groundwater conservation district exists within the RWPA, then the RWPG shall determine the Availability of groundwater for regional planning purposes. The Board shall review and consider approving the RWPG-Estimated Groundwater Availability, prior to inclusion in the IPP, including determining if the estimate is physically compatible with the desired future conditions for relevant aquifers in groundwater conservation districts in the co-located groundwater management area or areas. The EA shall use the Board's groundwater availability models as appropriate to conduct the compatibility review.

(3) In RWPAs that have at least one groundwater conservation district, the EA shall consider a written request from an RWPG to apply a MAG Peak Factor in the form of a percentage (e.g., greater than 100 percent) applied to the modeled available groundwater value of any particular aquifer-region-county-basin split within the jurisdiction of a groundwater conservation district, or groundwater management area if no groundwater conservation district exists, to allow temporary increases in annual availability for planning purposes. The request must:

(A) Include written approval from the groundwater conservation district, if a groundwater conservation district exists in the particular aquifer-region-county-basin split, and from representatives of the groundwater management area,

(B) Provide the technical basis for the request, and

(C) Document the basis for how the temporary availability increase will not prevent the groundwater conservation district from managing groundwater resources to achieve the desired future condition.

(e) RWPGs shall evaluate the Existing Water Supplies[~~existing water supplies~~] for each WUG and WWP.

(f) Water supplies based on contracted agreements shall [~~will~~] be based on the terms of the contract, which may be assumed to renew upon contract termination if the contract

contemplates renewal or extensions.

(g) Evaluation results shall be reported by WUG in accordance with §357.31(a) of this title (relating to Projected Population and Water Demands) and MWP[~~WWPs~~] in accordance with §357.31(b) of this title.

§357.33 Needs Analysis: Comparison of Water Supplies and Demands

(a) RWPs shall include comparisons of existing water supplies and projected Water Demands [~~water demands~~] to identify Water Needs [~~water needs~~].

(b) RWPGs shall compare projected Water Demands [~~water demands~~], developed in accordance with §357.31 of this title (relating to Projected Population and Water Demands), with existing water supplies available to WUGs and WWPs in a planning area, as developed in accordance with §357.32 of this title (relating to Water Supply Analysis), to determine whether WUGs will experience water surpluses or needs for additional supplies. Results shall[~~will~~] be reported for WUGs [~~and for WWPs~~] by categories of use including municipal, manufacturing, irrigation, steam electric, mining, and livestock watering for each county or portion of a county in an[~~a~~] RWPA. Results shall be reported for MWPs by categories of use including municipal, manufacturing, irrigation, steam electric, mining, and livestock watering for the RWPA.

(c) The social and economic impacts of not meeting Water Needs [~~water needs~~] shall [~~will~~] be evaluated by RWPGs and reported for each RWPA.

(d) Results of evaluations shall [~~will~~] be reported by WUG in accordance with §357.31(a) of this title and MWP[~~WWPs~~] in accordance with §357.31(b) of this title.

(e) RWPGs shall perform a secondary water needs analysis for all WUGs and WWPs for which conservation WMSs [~~water management strategies~~] or direct Reuse[~~reuse~~] WMSs [~~water management strategies~~] are recommended. This secondary water needs analysis shall[~~will~~] calculate the Water Needs [~~water needs~~] that would remain after assuming all recommended conservation and direct Reuse[~~reuse~~] WMSs [~~water management strategies~~] are fully implemented. The resulting secondary water needs volumes shall be presented in the RWP by WUG and MWP[~~WWP~~] and decade.

§357.34 Identification and Evaluation of Potentially Feasible Water Management Strategies and Water Management Strategy Projects

(a) RWPGs shall identify and evaluate potentially feasible WMSs [~~water management strategies~~] and the WMSPs required to implement those strategies for all WUGs and WWPs with identified Water Needs [~~water needs~~].

(b) RWPGs shall identify potentially feasible WMSs [~~water management strategies~~] to meet water supply needs identified in §357.33 of this title (relating to Needs Analysis: Comparison of Water Supplies and Demands) in accordance with the process in §357.12(b) of this title (relating to General Regional Water Planning Group Responsibilities and Procedures).

Strategies shall be developed for WUGs and WWPs. The strategies shall meet new water supply obligations necessary to implement recommended WMSs [~~water management strategies~~] of WWPs and WUGs. RWPGs shall plan for water supply during Drought of Record conditions. In developing RWPs, RWPGs shall provide WMSs to be used during a Drought of Record [~~drought of record~~].

(c) Potentially feasible WMSs [~~water management strategies~~] may include, but are not limited to:

(1) Expanded use of existing supplies including system optimization and conjunctive use of water resources, reallocation of reservoir storage to new uses, voluntary redistribution of water resources including contracts, water marketing, regional water banks, sales, leases, options, subordination agreements, and financing agreements, subordination of existing water rights through voluntary agreements, enhancements of yields of existing sources, and improvement of water quality including control of naturally occurring chlorides.

(2) New supply development including construction and improvement of surface water and groundwater resources, brush control, precipitation enhancement, seawater desalination, brackish groundwater desalination, water supply that could be made available by cancellation of water rights based on data provided by the Commission, rainwater harvesting, and aquifer storage and recovery.

(3) Conservation and Drought Management Measures [~~drought management measures~~] including demand management.

(4) Reuse of wastewater.

(5) Interbasin Transfers of Surface Water. [~~transfers of surface water.~~]

(6) Emergency transfers of surface water including a determination of the part of each water right for non-municipal use in the RWPA that may be transferred without causing unreasonable damage to the property of the non-municipal water rights holder in accordance with Texas Water Code §11.139 (relating to Emergency Authorizations).

(d) All recommended WMSs and WMSPs that are entered into the State Water Planning Database and prioritized by RWPGs shall be designed to reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or develop, deliver or treat additional water supply volumes to WUGs or WWPs in at least one planning decade such that additional water is available during Drought of Record conditions.

Any other RWPG recommendations regarding permit modifications, operational changes, and/or other infrastructure that are not designed to reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or develop, deliver or treat additional water supply volumes to WUGs or WWPs in at least one Planning Decade such that additional water is available during Drought of Record conditions shall be indicated as such and presented separately in the RWP and shall not be eligible for funding from the State Water

Implementation Fund for Texas.

(e)[~~(d)~~] Evaluations of potentially feasible WMSs [~~water management strategies~~] and associated WMSPs shall include the following analyses:

(1) For the purpose of evaluating potentially feasible WMSs [~~water management strategies~~], the Commission's most current Water Availability Model with assumptions of no return flows and full utilization of senior water rights, is to be used. Alternative assumptions may be used with written approval from the EA who shall [~~will~~] consider a written request from an[~~a~~] RWPG to use assumptions other than no return flows and full utilization of senior water rights.

(2) An equitable comparison between and consistent evaluation and application of all WMSs [~~water management strategies~~] the RWPGs determine to be potentially feasible for each water supply need.

(3) A quantitative reporting of:

(A) The net quantity, reliability, and cost of water delivered and treated for the end user's requirements during Drought of Record [~~drought of record~~] conditions, taking into account and reporting anticipated strategy water losses, incorporating factors used calculating infrastructure debt payments and may include present costs and discounted present value costs. Costs do not include distribution of water within a WUG after treatment.

(B) Environmental factors including effects on environmental water needs, wildlife habitat, cultural resources, and effect of upstream development on bays, estuaries, and arms of the Gulf of Mexico. Evaluations of effects on environmental flows shall [~~will~~] include consideration of the Commission's adopted environmental flow standards under 30 Texas Administrative Code Chapter 298 (relating to Environmental Flow Standards for Surface Water). If environmental flow standards have not been established, then environmental information from existing site-specific studies, or in the absence of such information, state environmental planning criteria adopted by the Board for inclusion in the State Water Plan [~~state water plan~~] after coordinating with staff of the Commission and the Texas Parks and Wildlife Department to ensure that WMSs [~~water management strategies~~] are adjusted to provide for environmental water needs including instream flows and bays and estuaries inflows.

(C) Impacts to agricultural resources.

(4) Discussion of the plan's impact on other water resources of the state including other WMSs [~~water management strategies~~] and groundwater and surface water interrelationships.

(5) A discussion of each threat to agricultural or natural resources identified pursuant to §357.30(7) of this title (relating to Description of the Regional Water Planning Area) including how that threat will be addressed or affected by the WMSs [~~water management strategies~~] evaluated.

(6) If applicable, consideration and discussion of the provisions in Texas Water Code

§11.085(k)(1) for Interbasin Transfers of Surface Water [~~interbasin transfers of surface water~~]. At minimum, this consideration shall [~~will~~] include a summation of Water Needs[~~water needs~~] in the basin of origin and in the receiving basin.

(7) Consideration of third-party social and economic impacts resulting from voluntary redistributions of water including analysis of third-party impacts of moving water from rural and agricultural areas.

(8) A description of the major impacts of recommended WMSs [~~water management strategies~~] on key parameters of water quality identified by RWPGs as important to the use of a water resource and comparing conditions with the recommended WMSs [~~water management strategies~~] to current conditions using best available data.

(9) Consideration of water pipelines and other facilities that are currently used for water conveyance as described in §357.22(a)(3) of this title (relating to General Considerations for Development of Regional Water Plans).

(10) Other factors as deemed relevant by the RWPG including recreational impacts.

(f)[~~(e)~~] RWPGs shall evaluate and present potentially feasible WMSs[~~Water Management Strategies~~] and WMSPs with sufficient specificity to allow state agencies to make financial or regulatory decisions to determine consistency of the proposed action before the state agency with an approved RWP.

(g)[~~(f)~~] Conservation, Drought Management Measures, and Drought Contingency Plans shall be considered by RWPGs when developing the regional plans, particularly during the process of identifying, evaluating, and recommending WMSs [~~water management strategies~~]. RWPs shall incorporate water conservation planning and drought contingency planning in the RWPA[~~regional water planning area~~].

(1) Drought Management Measures [~~management measures~~] including water demand management. RWPGs shall consider Drought Management Measures [~~drought management measures~~] for each need identified in §357.33 of this title and shall include such measures for each user group to which Texas Water Code §11.1272 (relating to Drought Contingency Plans for Certain Applicants and Water Right Holders) applies. Impacts of the Drought Management Measures [~~drought management measures~~] on Water Needs [~~water needs~~] must be consistent with guidance provided by the Commission in its administrative rules implementing Texas Water Code §11.1272. If an[~~a~~] RWPG does not adopt a drought management strategy for a need it must document the reason in the RWP. Nothing in this paragraph shall be construed as limiting the use of voluntary arrangements by water users to forgo water usage during drought periods.

(2) Water conservation practices. RWPGs must consider water conservation practices, including potentially applicable best management practices, for each identified Water Need [~~water need~~].

(A) RWPGs shall include water conservation practices for each user group to which Texas Water Code §11.1271 and §13.146 (relating to Water Conservation Plans) apply. The impact of these water conservation practices on Water Needs [~~water needs~~] must be consistent with requirements in appropriate Commission administrative rules related to Texas Water Code §11.1271 and §13.146.

(B) RWPGs shall consider water conservation practices for each WUG beyond the minimum requirements of subparagraph (A) of this paragraph, whether or not the WUG is subject to Texas Water Code §11.1271 and §13.146. If RWPGs do not adopt a Water Conservation Strategy [~~water conservation strategy~~] to meet an identified need, they shall document the reason in the RWP.

(C) For each WUG or WWP that is to obtain water from a proposed interbasin transfer to which Texas Water Code §11.085 (relating to Interbasin Transfers) applies, RWPGs shall [~~will~~] include a Water Conservation Strategy [~~water conservation strategy~~], pursuant to Texas Water Code §11.085(1), that will result in the highest practicable level of water conservation and efficiency achievable. For these strategies, RWPGs shall [~~will~~] determine and report projected water use savings in gallons per capita per day based on its determination of the highest practicable level of water conservation and efficiency achievable. RWPGs shall [~~will~~] develop conservation strategies based on this determination. In preparing this evaluation, RWPGs shall [~~will~~] seek the input of WUGs and WWPs as to what is the highest practicable level of conservation and efficiency achievable, in their opinion, and take that input into consideration. RWPGs shall [~~will~~] develop water conservation strategies consistent with guidance provided by the Commission in its administrative rules that implement Texas Water Code §11.085. When developing water conservation strategies, the RWPGs must consider potentially applicable best management practices. Strategy evaluation in accordance with this section shall [~~will~~] include a quantitative description of the quantity, cost, and reliability of the water estimated to be conserved under the highest practicable level of water conservation and efficiency achievable.

(D) RWPGs shall consider strategies to address any issues identified in the information compiled by the Board from the water loss audits performed by Retail Public Utilities [~~retail public utilities~~] pursuant to §358.6 of this title (relating to Water Loss Audits).

(h)[~~(g)~~] RWPs shall include a subchapter consolidating the RWPG's recommendations regarding water conservation. RWPGs shall include in the RWPs model water conservation plans pursuant to Texas Water Code §11.1271.

§357.35 Recommended and Alternative Water Management Strategies and Water Management Strategy Projects

(a) RWPGs shall recommend WMSs [~~water management strategies~~] and the WMSPs required to implement those WMSs to be used during a Drought of Record [~~drought of record~~] based on the potentially feasible WMSs[~~Water Management Strategies~~] evaluated under §357.34 of this title (relating to Identification and Evaluation of Potentially Feasible Water Management Strategies and Water Management Strategy Projects).

(b) RWPGs shall recommend specific WMSs [~~water management strategies~~] and WMSPs based upon the identification, analysis, and comparison of WMSs [~~water management strategies~~] by the RWPG that the RWPG determines are potentially feasible so that the cost effective WMSs [~~water management strategies~~] that are environmentally sensitive are considered and adopted unless an[~~a~~] RWPG demonstrates that adoption of such WMSs[~~strategies~~] is inappropriate. To determine cost-effectiveness and environmental sensitivity, RWPGs shall [~~will~~] follow processes described in §357.34 of this title. The RWP may include Alternative WMSs[~~alternative water management strategies~~] evaluated by the processes described in §357.34 of this title.

(c) Strategies shall [~~will~~] be selected by the RWPGs so that cost effective WMSs [~~water management strategies~~], which are consistent with long-term protection of the state's water resources, agricultural resources, and natural resources are adopted.

(d) RWPGs shall identify and recommend WMSs [~~water management strategies~~] for all WUGs and WWPs with identified Water Needs [~~water needs~~] and that meet all Water Needs [~~water needs~~] during the Drought of Record [~~drought of record~~] except in cases where:

(1) no WMS[~~water management strategy~~] is feasible. In such cases, RWPGs must explain why no WMSs[~~management strategies~~] are feasible; or

(2) a Political Subdivision [~~political subdivision~~] that provides water supply other than water supply corporations, counties, or river authorities explicitly does not participate in the regional water planning process for needs located within its boundaries or extraterritorial jurisdiction.

(e) Specific recommendations of WMSs [~~water management strategies~~] to meet an identified need shall [~~will~~] not be shown as meeting a need for a Political Subdivision [~~political subdivision~~] if the Political Subdivision [~~political subdivision~~] in question objects to inclusion of the strategy for the Political Subdivision [~~political subdivision~~] and specifies its reasons for such objection. This does not prevent the inclusion of the strategy to meet other needs.

(f) Recommended strategies shall protect existing water rights, water contracts, and option agreements, but may consider potential amendments of water rights, contracts and agreements, which would require the eventual consent of the owner.

(g) RWPGs shall report the following:

(1) Recommended WMSs [~~water management strategies~~], recommended WMSPs, and the associated results of all the potentially feasible WMS [~~water management strategy~~] evaluations by WUG and MWP [~~WWP~~]. If a WUG [~~or WWP~~] lies in one or more counties or RWPAs or river basins, data shall [~~will~~] be reported for each river basin, RWPA, and county.

(2) Calculated planning management supply factors for each WUG and MWP [~~WWP~~] included in the RWP assuming all recommended WMSs [~~water management strategies~~] are implemented. This calculation shall be based on the sum of: the total existing water supplies, plus all water supplies from recommended WMSs [~~water management strategies~~] for each

entity; divided by that entity's total projected Water Demand ~~[water demand]~~, within the Planning Decade [~~planning decade~~]. The resulting calculated management supply[~~safety~~] factor shall be presented in the plan by entity and decade for every WUG and MWP [~~WWP~~]. Calculating planning management supply factors is for reporting purposes only.

(3) Fully evaluated Alternative WMSs and associated WMSPs[~~Water Management Strategies~~] included in the adopted RWP shall be presented together in one place in the RWP.

SUBCHAPTER D IMPACTS, DROUGHT RESPONSE, POLICY RECOMMENDATIONS, AND IMPLEMENTATION

§357.40 Impacts of Regional Water Plan

(a) RWPs shall include a quantitative description of the socioeconomic impacts of not meeting the identified Water Needs [~~water needs~~] pursuant to §357.33(c) of this title (relating to Needs Analysis: Comparison of Water Supplies and Demands).

(b) RWPs shall include a description of the impacts of the RWP regarding:

(1) Agricultural resources pursuant to §357.34(e)[~~(d)~~](3)(C) of this title (relating to Identification and Evaluation of Potentially Feasible Water Management Strategies);

(2) Other water resources of the state including other WMSs [~~water management strategies~~] and groundwater and surface water interrelationships pursuant to §357.34(e)[~~(d)~~] (4) of this title;

(3) Threats to agricultural and natural resources identified pursuant to §357.34(e)[~~(d)~~] (5) of this title;

(4) Third-party social and economic impacts resulting from voluntary redistributions of water including analysis of third-party impacts of moving water from rural and agricultural areas pursuant to §357.34(e)[~~(d)~~] (7) of this title;

(5) Major impacts of recommended WMSs [~~water management strategies~~] on key parameters of water quality pursuant to §357.34(e)[~~(d)~~] (8) of this title; and

(6) Effects on navigation.

(c) RWPs shall include a summary of the identified Water Needs [~~water needs~~] that remain unmet by the RWP.

§357.42 Drought Response Information, Activities, and Recommendations

(a) RWPs shall consolidate and present information on current and planned preparations for, and responses to, drought conditions in the region including, but not limited to, Drought of Record [~~drought of record~~] conditions based on the following subsections.

(b) RWPGs shall conduct an overall assessment of current preparations for drought within the RWPA including a description of how water suppliers in the RWPA identify and respond to the onset of drought. This may include information from local Drought Contingency Plans [~~drought contingency plans~~].

(c) RWPGs shall develop drought response recommendations regarding the management of existing groundwater and surface water sources in the RWPA designated in accordance with §357.32 of this title (relating to Water Supply Analysis), including:

(1) Factors specific to each source of water supply to be considered in determining whether to initiate a drought response for each water source including specific recommended drought response triggers;

(2) Actions to be taken as part of the drought response by the manager of each water source and the entities relying on each source, including the number of drought stages; and

(3) Triggers and actions developed in paragraphs (1) and (2) of this subsection may consider existing triggers and actions associated with existing Drought Contingency Plans [~~drought contingency plans~~].

(d) RWPGs shall [~~will~~] collect information on existing major water infrastructure facilities that may be used for interconnections in event of an emergency shortage of water. In accordance with Texas Water Code §16.053(r), this information is CONFIDENTIAL INFORMATION and cannot be disseminated to the public. The associated information is to be collected by a subgroup of RWPG members in a closed meeting and submitted separately to the EA in accordance with guidance to be provided by EA.

(e) RWPGs shall [~~will~~] provide general descriptions of local Drought Contingency Plans [~~drought contingency plans~~] that involve making emergency connections between water systems or WWP systems that do not include locations or descriptions of facilities that are disallowed under subsection (d) of this section.

(f) RWPGs may designate recommended and alternative Drought Management Water Management Strategies [~~drought management water management strategies~~] and other recommended drought measures in the RWP including:

(1) List and description of the recommended Drought Management Water Management Strategies [~~drought management water management strategies~~] and associated WUGs and WWPs, if any, that are recommended by the RWPG. Information to include associated triggers to initiate each of the recommended Drought Management WMSs [~~drought management water management strategies~~];

(2) List and description of alternative Drought Management WMSs [~~drought management water management strategies~~] and associated WUGs and WWPs, if any, that are included in the plan. Information to include associated triggers to initiate each of the alternative Drought Management WMSs [~~drought management water management strategies~~];

(3) List of all potentially feasible Drought Management WMSs [~~drought management water management strategies~~] that were considered or evaluated by the RWPG but not recommended; and

(4) List and summary of any other recommended Drought Management Measures [~~drought management measures~~], if any, that are included in the RWP, including associated triggers if applicable.

(g) The RWPGs shall evaluate potential emergency responses to local drought conditions or loss of existing water supplies; the evaluation shall include identification of potential alternative water sources that may be considered for temporary emergency use by WUGs and WWPs in the event that the Existing Water Supply [~~existing water supply~~] sources become temporarily unavailable to the WUGs and WWPs due to unforeseeable hydrologic conditions such as emergency water right curtailment, unanticipated loss of reservoir conservation storage, or other localized drought impacts. RWPGs shall evaluate, at a minimum, municipal WUGs that:

(1) have existing populations less than 7,500;

(2) rely on a sole source for its water supply regardless of whether the water is provided by a WWP; and

(3) all County-Other [~~county-other~~] WUGs.

(h) RWPGs shall consider any relevant recommendations from the Drought Preparedness Council.

(i) RWPGs shall make drought preparation and response recommendations regarding:

(1) Development of, content contained within, and implementation of local Drought Contingency Plans [~~drought contingency plans~~] required by the Commission;

(2) Current drought management preparations in the RWPA including:

(A) drought response triggers; and

(B) responses to drought conditions;

(3) The Drought Preparedness Council and the State Drought Preparedness Plan; and

(4) Any other general recommendations regarding drought management in the region or state.

(j) The RWPGs shall develop region-specific model Drought Contingency Plans [~~drought contingency plans~~].

§357.43 Regulatory, Administrative, or Legislative Recommendations

(a) The RWPs shall contain any regulatory, administrative, or legislative recommendations developed by the RWPGs.

(b) Ecologically Unique River and Stream Segments. RWPGs may include in adopted RWPs recommendations for all or parts of river and stream segments of unique ecological value located within the RWPA by preparing a recommendation package consisting of a physical description giving the location of the stream segment, maps, and photographs of the stream segment and a site characterization of the stream segment documented by supporting literature and data. The recommendation package shall address each of the criteria for designation of river and stream segments of ecological value found in this subsection. The RWPG shall forward the recommendation package to the Texas Parks and Wildlife Department and allow the Texas Parks and Wildlife Department 30 days for its written evaluation of the recommendation. The adopted RWP shall include, if available, Texas Parks and Wildlife Department's written evaluation of each river and stream segment recommended as a river or stream segment of unique ecological value.

(1) An[~~A~~] RWPG may recommend a river or stream segment as being of unique ecological value based upon the criteria set forth in §358.2 of this title (relating to Definitions).

(2) For every river and stream segment that has been designated as a unique river or stream segment by the legislature, during a session that ends not less than one year before the required date of submittal of an adopted RWP to the Board, or recommended as a unique river or stream segment in the RWP, the RWPG shall assess the impact of the RWP on these segments. The assessment shall be a quantitative analysis of the impact of the plan on the flows important to the river or stream segment, as determined by the RWPG, comparing current conditions to conditions with implementation of all recommended WMSs [~~water management strategies~~]. The assessment shall also describe the impact of the plan on the unique features cited in the region's recommendation of that segment.

(c) Unique Sites for Reservoir Construction. An[~~A~~] RWPG may recommend sites of unique value for construction of reservoirs by including descriptions of the sites, reasons for the unique designation and expected beneficiaries of the water supply to be developed at the site. The criteria at §358.2 of this title shall be used to determine if a site is unique for reservoir construction.

(d) Any other recommendations that the RWPG believes are needed and desirable to achieve the stated goals of state and regional water planning including to facilitate the orderly development, management, and conservation of water resources and prepare for and respond to drought conditions.

(e) RWPGs may develop information as to the potential impacts of any proposed changes in law prior to or after changes are enacted.

(f) RWPGs should consider making legislative recommendations to facilitate more voluntary

water transfers in the region.

§357.44 Infrastructure Financing Analysis

RWPGs shall assess and quantitatively report on how individual local governments, regional authorities, and other Political Subdivisions[~~political subdivisions~~] in their RWPA propose to finance recommended WMSs [~~water management strategies~~] and associated WMSPs.

§357.45 Implementation and Comparison to Previous Regional Water Plan

(a) RWPGs shall describe the level of implementation of previously recommended WMSs [~~water management strategies~~]. Information on the progress of implementation of all WMSs [~~water management strategies~~] that were recommended in the previous RWP, including conservation and Drought Management WMSs[~~drought management water management strategies~~]; and the implementation of WMSPs[~~projects~~] that have affected progress in meeting the state's future water needs.

(b) RWPGs shall provide a brief summary of how the RWP differs from the previously adopted RWP with regards to:

(1) Water Demand [~~demand~~] projections;

(2) Drought of Record [~~drought of record~~] and hydrologic and modeling assumptions used in planning for the region;

(3) Groundwater and surface water Availability [~~availability~~], Existing Water Supplies[~~existing water supplies~~], and identified Water Needs [~~water needs~~] for WUGs and WWPs; and

(4) Recommended and Alternative WMSs [~~alternative water management strategies~~].

§357.46 Prioritization of Projects by Regional Water Planning Groups

Each RWPG shall prioritize recommended WMSPs in its respective RWP and submit the prioritization separately with its adopted RWP. The RWPG must prioritize the WMSPs in accordance with the uniform standards, developed by the stakeholders committee established under Texas Water Code, §15.436(c), in effect at the time it adopts its RWP.

SUBCHAPTER E ADOPTION, SUBMITTAL, AND AMENDMENTS TO REGIONAL WATER PLANS

§357.50 Adoption, Submittal, and Approval of Regional Water Plans

(a) The RWPGs shall submit their adopted RWPs to the Board every five years on a date to be disseminated by the EA, as modified by subsection (g)[~~(e)~~](2) of this section, for approval and inclusion in the State Water Plan [~~state water plan~~].

(b) Prior to the adoption of the RWP, the RWPGs shall submit concurrently to the EA and the public an IPP. The IPP submitted to the EA must be in the electronic and paper format specified by the EA. Each RWPG must certify that the IPP is complete and adopted by the RWPG. In the instance of a recommended WMS [~~water management strategy~~] proposed to be supplied from a different RWPA[~~regional water planning area~~], the RWPG recommending such strategy shall submit, concurrently with the submission of the IPP to the EA, a copy of the IPP, or a letter identifying the WMS[~~water management strategy~~] in the other region along with an internet link to the IPP, to the RWPG associated with the location of such strategy.

(c) The RWPGs shall distribute the IPP in accordance with §357.21(d)(4)[~~(5)~~] of this title (relating to Notice and Public Participation).

(d) Within 60 days of the submission of IPPs to the EA, the RWPGs shall submit to the EA, and the other affected RWPG, in writing, the identification of potential Interregional Conflicts [~~interregional conflicts~~] by:

(1) identifying the specific recommended WMS[~~water management strategy~~] from another RWPG's IPP;

(2) providing a statement of why the RWPG considers there to be an Interregional Conflict [~~interregional conflict~~]; and

(3) providing any other information available to the RWPG that is relevant to the Board's[~~board's~~] decision.

(e) The RWPGs shall seek to resolve conflicts with other RWPGs and shall promptly and actively participate in any Board sponsored efforts to resolve Interregional Conflicts [~~interregional conflicts~~].

(f) The RWPGs shall solicit, and consider the following comments when adopting an[~~a~~] RWP:

(1) the EA's written comments, which shall be provided to the RWPG within 120 days of receipt of the IPP;

(2) written comments received from any federal agency or Texas state agency, which the RWPGs shall accept after the first public hearing notice is published pursuant to §357.21(d) of this title until at least 90 days after the public hearing is held pursuant to §357.21(d) of this title; and

(3) any written or oral comments received from the public after the first public hearing notice is published pursuant to §357.21(d) of this title until at least 60 days after the public hearing is held pursuant to §357.21(d) of this title.

(4) The RWPGs shall revise their IPPs to incorporate negotiated resolutions or Board resolutions of any Interregional Conflicts [~~interregional conflicts~~] into their final adopted RWPs.

(5) In the event that the Board has not resolved an Interregional Conflict [~~interregional conflict~~] sufficiently early to allow an involved RWPG to modify and adopt its final RWP by the statutory deadline, all RWPGs involved in the conflict shall proceed with adoption of their RWP by excluding the relevant recommended WMS [~~water management strategy~~] and all language relevant to the conflict and include language in the RWP explaining the unresolved Interregional Conflict [~~interregional conflict~~] and acknowledging that the RWPG may be required to revise or amend its RWP in accordance with a negotiated or Board resolution of an Interregional Conflict [~~interregional conflict~~].

(g) Submittal of RWPs. RWPGs shall submit the IPP and the adopted RWPs and amendments to approved RWPs to the EA in conformance with this section.

(1) RWPs shall include:

(A) The technical report and data prepared in accordance with this chapter and the EA's specifications;

(B) An executive summary that documents key RWP findings and recommendations; and

(C) Summaries of all written and oral comments received pursuant to subsection (f) of this section, with a response by the RWPG explaining how the plan was revised or why changes were not warranted in response to written comments received under subsection (f) of this section.

(2) RWPGs shall submit RWPs[~~regional plans~~] to the EA according to the following schedule:

(A) IPPs[~~Initially prepared plans~~] are due every five years on a date disseminated by the EA unless an extension is approved, in writing, by the EA.

(B) Prior to submission of the IPP, the RWPGs shall upload the data, metadata and all other relevant digital information supporting the plan to the Board's State Water Planning Database [~~planning database system~~]. All changes and corrections to this information must be entered into the Board's State Water Planning Database [~~database~~] prior to submittal of a final adopted plan.

(C) The RWPG shall [~~will~~] transfer copies of all data, models, and reports generated by the planning process and used in developing the RWP to the EA. To the maximum extent possible, data shall be transferred in digital form according to specifications provided by the EA. One copy of all reports prepared by the RWPG shall be provided in digital format according to specifications provided by the EA. All digital mapping shall use a geographic information system according to specifications provided by the EA. The EA shall seek the input from the State Geographic Information Officer regarding specifications mentioned in this section.

(D) Adopted RWPs are due to the EA every five years on a date disseminated by the EA unless, at the discretion of the EA, a time extension is granted consistent with the timelines in Texas Water Code §16.053(i).

(E) Once approved by the Board, RWPs shall [~~will~~] be made available on the Board website.

(h) Upon receipt of an[~~a~~] RWP adopted by the RWPG, the Board shall [~~will~~] consider approval of such plan based on the following criteria:

(1) verified adoption of the RWP by the RWPG; and

(2) verified incorporation of any negotiated resolution or Board resolution of any Interregional Conflicts [~~interregional conflicts~~], or in the event that an Interregional Conflict [~~interregional conflict~~] is not yet resolved, verified exclusion of the relevant recommended WMS[~~water management strategy~~] and all language relevant to the conflict.

(i) Approval of RWPs by the Board. The Board may approve an[~~a~~] RWP only after it has determined that the RWP complies with statute and rules.

(j) The Board shall consider approval of a RWP that includes unmet municipal Water Needs provided that the RWPG includes adequate justification, including that the RWP:

(1) documents that the RWPG considered all potentially feasible WMSs, including Drought Management WMSs and contains an explanation why additional conservation and/or Drought Management WMSs were not recommended to address the need;

(2) describes how, in the event of a repeat of the Drought of Record, the municipal WUGs associated with the unmet need shall ensure the public health, safety, and welfare in each Planning Decade that has an unmet need; and

(3) explains whether there may be occasion, prior to development of the next IPP, to amend the RWP to address all or a portion of the unmet need.

(k)[~~(j)~~] Board Adoption of State Water Plan. RWPs approved by the Board pursuant to this chapter shall be incorporated into the State Water Plan [~~state water plan~~] as outlined in §358.4 of this title (relating to Guidelines).

§357.51 Amendments to Regional Water Plans

(a) Local Water Planning Amendment Requests. A Political Subdivision [~~political subdivision~~] in the RWPA may request an[~~a~~] RWPG to consider specific changes to an adopted RWP based on changed conditions or new information. An[~~A~~] RWPG must formally consider such request within 180 days after its receipt and shall amend its adopted RWP if it determines an amendment is warranted. If the Political Subdivision [~~political subdivision~~] is not satisfied with the RWPG's decision on the issue, it may file a petition with the EA to request Board review the decision and consider changing the approved RWP. The Political Subdivision [~~political subdivision~~] shall send a copy of the petition to the chair of the affected RWPG.

(1) The petition must state:

(A) the changed condition or new information that affects the approved RWP;

(B) the specific sections and provisions of the approved RWP that are affected by the changed condition or new information;

(C) the efforts made by the Political Subdivision [~~political subdivision~~] to work with the RWPG to obtain an amendment; and

(D) the proposed amendment to the approved RWP.

(2) If the EA determines that the changed condition or new information warrants a change in the approved RWP, the EA shall request the RWPG to consider making the appropriate change and provide the reason in writing. The Political Subdivision[~~political subdivision~~] that submitted the petition shall [~~will~~] receive notice of any action requested of the RWPG by the EA. If the RWPG does not amend its plan consistent with the request within 90 days, it shall provide a written explanation to the EA, after which the EA shall [~~will~~] present the issue to the Board for consideration at a public meeting. Before presenting the issue to the Board, the EA shall [~~will~~] provide the RWPG, the Political Subdivision[~~political subdivision~~] submitting the petition, and any Political Subdivision[~~political subdivision~~] determined by the EA to be affected by the issue 30 days notice. At the public meeting, the Board may direct the RWPG to amend its RWP based on the local Political Subdivision's request.

(b) Major Amendments to RWPs and State Water Plan. An[~~A~~] RWPG may amend an adopted RWP at any meeting, after giving notice for a major amendment and holding a hearing according to §357.21(d) of this title (relating to Notice and Public Participation). An amendment is major if it does not meet the criteria of subsection (c), (d) or (e) of this section. An[~~A~~] RWPG may propose amendments to an approved RWP by submitting proposed amendments to the Board for its consideration and possible approval under the standards and procedures of this section.

(1) Initiation of a Major Amendment. An entity may request an[~~a~~] RWPG amend its adopted RWP. An[~~A~~] RWPG's consideration for action to initiate an amendment may occur at a regularly scheduled meeting.

(2) RWPG Public Hearing. The RWPG shall hold a public hearing on the amendment as defined in §357.21(d) of this title. The amendment shall be available for agency and public comment at least 30 days prior to the public hearing and 30 days following the public hearing as defined in §357.21(d) of this title.

(3) The proposed major amendment:

(A) Shall not result in an over-allocation of an existing or planned source of water; and

[~~(B) Shall not produce unmet needs new to the adopted RWP; and~~]

(B)[~~(C)~~] Shall conform with rules applicable to RWP development as defined in Subchapters C

and D of this chapter.

(4) RWPG Major Amendment Adoption. The RWPG may adopt the amendment at a regularly scheduled RWPG meeting held in accordance with §357.21(b) of this title following the 30-day public comment period held in accordance with §357.21(d) of this title. The amendment shall include response to comments received.

(5) Board Approval of Major Amendment. After adoption of the major amendment, the RWPG shall submit the amendment to the Board which shall consider approval of the amendment at its next regularly scheduled meeting following EA review of the amendment.

(c) Minor Amendments to RWPs and State Water Plan.

(1) An[~~Minor Amendment to RWP. A~~] RWPG may amend its RWP by first providing a copy of the proposed amendment to the EA for a determination as to whether the amendment would be minor.

(2) EA Pre-Adoption Review. The EA shall evaluate the proposed minor amendment prior to the RWPG's vote to adopt the amendment. An amendment is minor if it meets the following criteria:

(A) does not result in over-allocation of an existing or planned source of water;

(B) does not relate to a new reservoir;

(C) does not increase unmet needs or produce new unmet needs in the adopted RWP;

(D)~~(C)~~ does not have a significant effect on instream flows, environmental flows or freshwater flows to bays and estuaries;

(E)~~(D)~~ does not have a significant substantive impact on water planning or previously adopted management strategies; and

(F)~~(E)~~ does not delete or change any legal requirements of the plan.

(3) Determination by EA. If the EA determines that the proposed amendment is minor, EA shall notify, in writing, the RWPG as soon as practicable.

(4) RWPG Public Meeting. After receipt of the written determination from the EA, the RWPG shall conduct a public meeting in accordance with §357.21(c) of this title. The public shall have an opportunity to comment and the RWPG shall amend the proposed minor amendment based on public comments, as appropriate, and to comply with existing statutes and rules related to regional water planning responses.

(5) Board Approval of Minor Amendment. After adoption of the minor amendment, the RWPG shall submit the amendment to the Board which shall approve the amendment at its next

regularly scheduled meeting unless the amendment contradicts or is in substantial conflict with statutes and rules relating to regional water planning.

(d) Amendment for Water Planning for a Clean Coal Project. An amendment to an[~~a~~] RWP or the State Water Plan [~~state water plan~~] to facilitate planning for water supplies reasonably required for a clean coal project, as defined by Texas Water Code §5.001, relating to the Texas Commission on Environmental Quality, shall be adopted by the process described in this section. However, an[~~a~~] RWPG may amend the RWP to accommodate planning for a clean coal project without a public meeting or hearing if the EA determines that:

(1) the amendment does not significantly change the RWP; or

(2) the amendment does not adversely affect other WMSs [~~water management strategies~~] in the RWP.

(e) Substitution of Alternative WMSs[~~Water Management Strategies~~]. After notice is provided in accordance with §357.21(c) of this title, RWPGs may substitute one or more evaluated Alternative Water Management Strategies [~~alternative water management strategies~~] for a recommended strategy if the strategy originally recommended is no longer recommended and the substitution of the Alternative WMS[~~alternative water management strategy~~] is capable of meeting the same Water Need [~~water need~~] without over-allocating any source. Proposed substitutions must receive written approval from the EA prior to substitution by the RWPG.

(f) In the instance of a substitution of an Alternative WMS[~~alternative water management strategy~~] or a proposed amendment with a recommended WMS[~~water management strategy~~] to be supplied from a different RWPA[~~regional water planning area~~], the RWPG recommending such strategy shall submit, concurrently with the submission of the substitution or proposed amendment to the EA, a copy of the substitution or proposed amendment to the RWPG for the location of such strategy. The provisions of sections 357.50(d), (e), (f), and (h), and 357.62, related to Interregional Conflicts, shall apply to substitution or amendment to the RWP in the same manner as those subdivisions apply to an IPP.

(g) Amending the State Water Plan. Following amendments of RWPs, including substitutions of Alternative WMSs [~~alternative water management strategies~~], the Board shall make any necessary amendments to the State Water Plan [~~state water plan~~] as outlined in §358.4 of this title (relating to Guidelines).

SUBCHAPTER F CONSISTENCY AND CONFLICTS IN REGIONAL WATER PLANS

§357.60 Consistency of Regional Water Plans

(a) RWPGs shall submit to the development Board an[~~a~~] RWP that is consistent with the guidance principles and guidelines outlined in §357.20 of this title (relating to Guidance Principles for State and Regional Water Planning). Information provided shall be based on data provided or approved by the Board in a format consistent with the guidelines of Subchapters C and D of this chapter and guidance by the EA.

(b) For the purposes of the Texas Water Code §16.053(j) (relating to Board Financial Assistance) projects proposed to the Board for funding shall [~~will~~] be considered to meet any need identified in an approved RWP in a manner consistent with the RWP if the project:

(1) Is an enhancement of an Existing Water Supply or water source[~~a current water supply~~] identified in the analysis developed under §357.32 of this title (relating to Water Supply Analysis) as meeting a demand, even though the project is not specifically recommended in the RWP;

(2) Involves a minor modification to an existing surface water right that is not in conflict with the RWP; or ~~and~~

(3) Is meeting a need in a manner consistent with the plan developed under Subchapters C and D of this chapter.

(4) For the purposes of the Texas Water Code §16.053(j), projects proposed to the Board for funding to meet any need identified in an approved RWP for which there is not a recommended WMS[~~water management strategy~~] in such plan shall [~~will~~] be considered by the Board not to be consistent with the approved RWP.

(5) For the purposes of the Texas Water Code §16.053(k) (relating to Board Waivers), the Board may consider, among other factors, changed conditions if a Political Subdivision [~~political subdivision~~] requests a waiver of the Texas Water Code §16.053(j) for a project proposed to the Board for funding to meet a need in a manner that is not consistent with the manner the need is addressed in an approved RWP. The Board shall request the members of any affected RWPG to provide input on the request for waiver of the Texas Water Code §16.053(j).

(c) Relation to state and local plans. RWPs shall be consistent with Chapter 358 of this title (relating to State Water Planning Guidelines) and this chapter. RWPGs shall consider and use as a guide the State Water Plan [~~state water plan~~] and local water plans provided for in the Texas Water Code §16.054 (relating to Local Water Planning).

§357.62 Interregional Conflicts

(a) In the event an[~~a~~] RWPG has asserted an interregional conflict and the Board has determined that there is a potential for a substantial adverse effect on that region, or the Board finds that an interregional conflict exists between IPPs, the EA may use the following process:

(1) notify the affected RWPGs of the nature of the interregional conflict;

(2) request affected RWPGs appoint a representative or representatives authorized to negotiate on behalf of the RWPG and notify the EA in writing of the appointment;

(3) request affected RWPGs' assistance in resolving the conflict; and

(4) negotiate resolutions of conflicts with RWPGs as determined by the EA.

(b) In the event the negotiation is unsuccessful, the EA may:

(1) determine a proposed recommendation for resolution of the conflict;

(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 RWPAs 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 RWPAs proposed to be impacted, and to each county judge of a county located in whole or in part in the RWPAs 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[~~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 RWPs.

§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 [~~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 [~~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. 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.

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