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AGENDA ITEM MEMO

BOARD MEETING DATE: April 16, 2026

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator
Georgia Sanchez, Chief Financial Officer
Ashley Harden, General Counsel
John T. Dupnik, P.G., Deputy Executive Administrator, Water Science and Conservation

FROM: Sam Marie Hermitte, Assistant Deputy Executive Administrator, Water Science and Conservation

SUBJECT: Adoption of rulemaking for 31 TAC Chapter 378 related to Outdoor Warning Siren Systems

ACTION REQUESTED

Consider authorizing the publication of the adoption of new chapter 31 Texas Administrative Code (TAC) Chapter 378.

BACKGROUND

In response to the devastating July 2025 floods, the Texas Legislature passed several bills aimed at improving Texas' preparedness for future flood events, including Senate Bill 3 (SB 3), relating to outdoor warning sirens in flash flood-prone areas. Governor Abbott signed SB 3 into law on September 5, 2025.

SB 3 requires the TWDB to develop rules relating to implementation of the bill's requirements, including the identification of flash flood-prone areas within the 30 counties included in the disaster declaration issued by the Governor in July 2025 that have a history of consistent or severe flooding and warrant outdoor warning sirens as well as the development of best management practices and guidance for the operation of outdoor warning sirens.

KEY ISSUES

At its January 22, 2026 Board meeting, the board authorized publishing the draft new 31 TAC Chapter 378 for public comment. The public comment period was open from February 6 through March 9, 2026. No comments were received.

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Leading the state's efforts
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L'Oreal Stepney, P.E., Chairwoman | W. Brady Franks, Board Member | Ashley Morgan, Board Member
Bryan McMath, Executive Administrator

This adoption adds a new Chapter 378 to 31 TAC related to outdoor warning siren systems. This new chapter outlines processes and procedures for the TWDB to complete the two main tasks assigned to the TWDB by SB 3. First, the rules establish a procedure by which the TWDB will identify flash flood-prone areas with a history of consistent or severe flooding and that warrant an outdoor warning siren. Second, the rules establish a procedure by which the TWDB will facilitate the development of best management practices and guidance related to the installation, operation, and maintenance of outdoor warning siren systems.

RECOMMENDATION

The Executive Administrator recommends authorizing the publication of the adoption of 31 TAC Chapter 378 to implement the requirements of SB 3.

Attachment:

1. Adoption of rulemaking to be filed with *Texas Register*.

The Texas Water Development Board (TWDB) adopts 31 Texas Administrative Code §§378.1-387.3. The proposal is adopted without changes as published in the February 6, 2026 issue of the *Texas Register* (51 *TexReg* 698).

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

This rulemaking implements relevant provisions of Senate Bill 3, 89th Second Called Session (SB 3). SB 3 (codified as Texas Water Code, Chapter 16, Subchapter M) tasks the TWDB with two main responsibilities related to outdoor warning siren systems in flash flood-prone areas. The first task is to identify each area within the 30 counties included in the governor's July 2025 flood disaster declaration that has a history of consistent or severe flooding and warrants the installation, maintenance, and operation of one or more outdoor warning sirens. Second, the TWDB must facilitate development of best management practices and guidance for the operation of an outdoor warning siren in a flash flood-prone area of the state, including related to backup power sources.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

Section 378.1. Definitions.

This section provides for the definitions to be used in this Chapter. Both "Flash flood-prone area" and "outdoor warning siren" are defined in the same manner as those terms are defined in Texas Water Code §16.501, as passed in SB 3. The rule also includes definitions of "executive administrator" and "TWDB" for clarity.

Section 378.2. Identification of Flash Flood-Prone Areas.

This section describes the process by which the TWDB will identify flash flood-prone areas within the July 2025 flood disaster declaration. The rule includes a process whereby the Executive Administrator will develop a recommendation and then propose the recommendation for the Board's consideration in an open meeting.

Section 378.3. Best Management Practices and Guidance.

This section provides that the TWDB will facilitate development of best management practices and guidance for outdoor warning sirens. Texas Water Code §16.502 requires certain governmental entities to install, maintain, and operate outdoor warning sirens in accordance with the guidance developed by the TWDB. The TWDB will develop the specific details of the best management practices and guidance in a separate guidance document. As provided in Texas Water Code §16.502, the TWDB may not approve financial assistance, other than financial assistance for an outdoor warning siren, for a county or municipality until the county or municipality certifies to the board that it is in compliance with Texas Water Code §16.502, related to the installation of outdoor warning sirens.

REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the 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 legislation.

Even if the rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but Texas Water Code §16.502. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this 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 SB 3. The rule would substantially advance this stated purpose by providing standards for certain local governments to follow when installing, maintaining, and operating outdoor warning sirens in flash flood-prone areas.

The TWDB’s analysis indicates that Texas Government Code, Chapter 2007 does not apply to this 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 TWDB is the agency that is charged with implementing SB 3.

Nevertheless, the TWDB further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject regulation does not affect a landowner’s rights in private real property because this rulemaking does not burden, 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 certain governmental entities to install outdoor warning sirens without burdening or restricting or limiting a landowner's right to property and reducing its value by 25% or more. Therefore, the rule does not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The public comment period ended on March 9, 2026, and no comments were received.

STATUTORY AUTHORITY (Texas Government Code §2001.033(a)(2))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Water Code §16.502.

This rulemaking affects Texas Water Code, Chapter 16, Subchapter M.

<rule>

Chapter 378. Outdoor Warning Siren Systems.

§378.1. Definitions.

The following words and terms, when used in this chapter, will have the following meanings unless the context clearly indicates otherwise.

- (1) Executive Administrator—The executive administrator of the TWDB or a designated representative.
- (2) Flash flood-prone area—An area of this state included in the disaster declaration issued by the governor under Section 418.014, Government Code, in response to the July 2025 Hill Country floods.
- (3) Outdoor warning siren—A system that produces a sound designed to alert a person who is outdoors of an imminent disaster and encourage that person to immediately seek shelter or move to higher ground and includes sensors, gages, and all other components essential to the function of the system.
- (4) TWDB—Texas Water Development Board.

§378.2. Identification of Flash Flood-Prone Areas.

(a) The Executive Administrator will identify each area in a flash flood-prone area that:

- (1) has a history of consistent or severe flooding; and

(2) based on the history under Subdivision (1) and any other factor the TWDB considers relevant, warrants the installation, maintenance, and operation of one or more outdoor warning sirens.

(b) The Executive Administrator will develop a recommended identification of the areas required in subsection (a) of this section and then present the recommendation to the governing body of the TWDB for consideration in an open meeting.

§378.3. Best Management Practices and Guidance.

(a) The TWDB will facilitate the development of best management practices and guidance:

(1) for the operation of an outdoor warning siren in a flash flood-prone area of this state; and

(2) for an outdoor warning siren installed, maintained, or operated in a flash flood-prone area, including guidance that an outdoor warning siren be equipped with a backup power source that is different from the siren's primary power source.

(b) Each municipality, county, or other governmental entity required to install, maintain, and operate one or more outdoor warning sirens in accordance with Texas Water Code §16.502(c) must do so in accordance with the TWDB guidance on outdoor warning siren systems.

(c) The TWDB may not approve financial assistance, other than financial assistance for an outdoor warning siren, for a county or municipality until the county or municipality certifies to the board that it is in compliance with Texas Water Code §16.502.