

**TO:** Board Members

**THROUGH:** Jeff Walker, Executive Administrator  
Joe Reynolds, Interim General Counsel

**FROM:** Richard Wade, Deputy Executive Administrator

**DATE:** March 12, 2020

**SUBJECT:** Proposed Texas Natural Resources Information System (TNRIS) Rulemaking

### **ACTION REQUESTED**

Consider authorizing publication of proposed additions to 31 Texas Administrative Code Chapter 353, relating to Geographic Information Systems (GIS).

### **BACKGROUND**

The proposed additions would establish standards that achieve uniformity of data and compatibility among geographic information software products used by state agencies and would place the standards under the direction of the state geographic information officer.

### **KEY ISSUES**

The current Chapter 353 Subchapter G, Texas Natural Resources Information System Partnerships, is proposed to be renamed Texas Natural Resources Information System (TNRIS) to allow for inclusion of multiple rules related to this TWDB program within a single subchapter.

The proposed additions for GIS standards are currently under the Department of Information Resources (DIR), which intends to repeal its rules. The rules are proposed to move to the Texas Water Development Board (TWDB) because the state geographic information officer resides within this agency.

### **RECOMMENDATION**

The Executive Administrator recommends authorizing the publication of proposed additions to 31 Texas Administrative Code Chapter 353 and renaming of Chapter 353, Subchapter G.

Attachment: Proposed Additions to Chapter 353

The Texas Water Development Board (TWDB) proposes adding new 31 Texas Administrative Code (TAC) §§353.102 and 353.103, relating to geographic information standards, and renaming 31 TAC Chapter 353 Subchapter G to broaden the scope of its subject matter.

## BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED ADDITIONS

The purpose of the proposed additions is to establish standards that achieve uniformity of data and compatibility among geographic information software products used by state agencies and to place the standards under the direction of the state geographic information officer. Proposed additions for GIS standards are identical to those currently under the Department of Information Resources (DIR), which intends to repeal its rules set out in 1 TAC Chapter 205. The rules are proposed to move to the Texas Water Development Board (TWDB) because the state geographic information officer resides within this agency.

The current Chapter 353 Subchapter G, Texas Natural Resources Information System Partnerships, is proposed to be renamed Texas Natural Resources Information System (TNRIS) to allow for inclusion of multiple rules related to this TWDB program within a single subchapter.

## SECTION BY SECTION DISCUSSION OF THE PROPOSED RULES

### *§353.102 Definitions*

Proposed §353.102 provides descriptions for terms related to geographic information technology, including a description for the state geographic information officer.

### *§353.103 State Agency Geographic Information Standards*

Proposed §353.103 adopts standards to guarantee that data created or procured by state agencies achieve compatibility with all geographic information software products. Standards also ensure the data are uniform in the event datasets are compiled from different sources.

## FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS

Rebecca Treviño, Chief Financial Officer, has determined that there will be no significant fiscal implications for state or local governments resulting from the proposed rulemaking. For the first five years these rules are in effect, there is no expected additional cost to state or local governments resulting from their administration.

These rules are not expected to result in reductions in costs to either state or local governments. There is no change in costs for state and local governments because the proposed additions transfer responsibility for state geographic information standards from DIR to TWDB. These rules are not expected to have any impact on state or local revenues. The rules and their administration will not require any increase in expenditures for state or local governments. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these rules.

Because these rules will not impose a cost on regulated persons, the requirement included in Texas Government Code Section 2001.0045 to repeal a rule does not apply.

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

## PUBLIC BENEFITS AND COSTS

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

## LOCAL EMPLOYMENT IMPACT STATEMENT

The board has determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years they are in effect, since they will impose no new requirements on local economies. The board also has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities from enforcing this rulemaking. The board also has determined that there is no anticipated economic cost to persons who are required to comply with the rulemaking as proposed. Therefore, no regulatory flexibility analysis is necessary.

## DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a “major environmental rule” as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, or 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 ensure state agencies develop geographic information in a compatible format for ease of data exchange, seek out data procurement partners for cost share and cost reduction, and to ensure maps depicting boundary lines include a “not surveyed by a professional surveyor” disclaimer.

Even if the proposed rules were major environmental rules, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not proposed solely under the general powers of the agency, but rather is proposed under the authority of Texas Water Code §16.021. Therefore, the proposed rules do 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 the proposed rules and performed an analysis of whether they constitute a taking under Texas Government Code Chapter 2007. The specific purpose of the rules is to provide state agency standards for geographic information procurement and compilation.

Promulgation and enforcement of the proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the proposed rulemaking 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, these rules require state agency compliance with standards for geographic information technology without burdening or restricting or limiting an owner's right to property and reducing its value by 25% or more. Therefore, the proposed rulemaking does not constitute a taking under Texas Government Code Chapter 2007.

#### GOVERNMENT GROWTH IMPACT STATEMENT

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

#### SUBMISSION OF COMMENTS

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

#### STATUTORY AUTHORITY

This rulemaking is proposed under the authority of Texas Water Code §6.101, which gives the TWDB the authority to adopt rules, and Texas Water Code §16.021.

Cross-reference to statute: Texas Water Code §16.021.

<rule>

#### SUBCHAPTER G. TEXAS NATURAL RESOURCES INFORMATION SYSTEM [PARTNERSHIPS] (TNRIS)

### §353.102 Definitions

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

(1) Geographic information system (GIS)--A system of computer hardware, software and procedures used to store, analyze and display geographic data and related tabular data in a geographic context to solve complex planning and management problems in a wide variety of applications.

(2) Geographic dataset--Digital data which illustrate and describe some characteristic of the earth's surface or a region near the earth's surface. A geographic dataset employs a defined, earth-based coordinate system which allows its use in a geographic information system. For the purposes of this rule, geospatial has the same meaning as geographic.

(3) Geographic dataset enhancement--Substantial alteration of a geographic dataset which increases its usefulness through the addition or modification of attribute (tabular) data fields, improvements in spatial accuracy, or extension of geographic coverage.

(4) Geospatial metadata--A description of the characteristics of a geographic dataset recorded in a standard format. Characteristics include data content, quality, purpose, condition, format, spatial coordinate system, availability, etc. The Federal Geographic Data Committee has defined a formal content standard for digital geospatial metadata for use by federal agencies.

(5) GIS map product--A geographic representation, in paper or electronic format, displaying features from one or more geographic datasets. Small scale images that are clearly intended only for graphic illustration within a larger publication are not considered to be GIS map products.

(6) High priority imagery and datasets (HPIDS)--HPIDS are geographic datasets identified by the state Geographic Information Officer as high priority for acquisition or enhancement, developed or acquired by state agencies, and intended for sharing and integration into a single statewide compilation.

(7) State Agency--A department, commission, board, office, council, authority, or other agency, other than an institution of higher education, in the executive or judicial branch of state government, that is created by the constitution or a statute of this state.

(8) State Geographic Information Officer (GIO)--The official coordinating, establishing, supporting, and monitoring geographic information technology in Texas pursuant to Water Code §16.021(c). The GIO serves as director of the Texas Natural Resources Information System (TNRIS) within the Texas Water Development Board.

### §353.103 State Agency Geographic Information Standards

(a) Applicability. All users and developers of geographic datasets and geographic information systems in state agencies must comply with the technical standards specified in this section. Activities conducted by a registered professional land surveyor while engaged in the practice of professional surveying, as defined in the Professional Land Surveying Practices Act (Art. 5282c, VTCS) are exempt from these standards.

(b) Implementation guidance. Pursuant to Water Code §16.021(c), the GIO provides guidance to the Executive Administrator of the Texas Water Development Board and to the Department of Information

Resources (the department). The guidance provided by the GIO to the department relates to technology standards developed by the department for geographic datasets pursuant to Water Code §16.021(e)(4).

(c) Geographic Information Standards.

(1) Geographic dataset acquisition and development.

(A) Standard. An agency planning to acquire, develop, or enhance a geographic dataset that may correspond to an HPIDS dataset shall coordinate such activity with the GIO to determine potential use of the HPIDS master contract.

(B) Procurement of public domain geographic datasets. An agency that procures a copy of a federal or other public domain geographic dataset shall make the dataset available to the Texas Natural Resources Information System (TNRIS). TNRIS will make these datasets available to other agencies, institutions of higher education, and to the public.

(2) Geographic dataset exchange: Data format. An agency that originates or adds data content to a non-proprietary geographic dataset and distributes the dataset to another state agency, institution of higher education, or the public must make the dataset available in at least one digital format that is recognized by the most commonly used geographic information systems. This requirement does not preclude the agency from offering the dataset in other data formats. The GIO provides guidance on acceptable formats for data exchange.

(3) Geographic dataset documentation.

(A) Preparation. An agency shall prepare documentation for each geographic dataset that it both:

(i) originates and/or adds data content to; and

(ii) distributes as a standard product to another state agency, institution of higher education, or the public.

(B) Statement of Purpose. Documentation must include a statement of the purpose or intended use of the dataset and a disclaimer warning against unintended uses of the dataset. If an agency is aware of specific inappropriate uses of the dataset which some users may be inclined to make, the dataset disclaimer must specifically warn against those uses.

(C) Format. This documentation must be in a geospatial metadata format specified by the GIO.

(D) Delivery. In responding to a request for a geographic dataset, an agency shall provide the requestor a copy of the documentation.

(4) GIS map product disclaimer. Any map product, in paper or electronic format, produced using geographic information system technology and intended for official use and/or distribution outside the agency, must include a disclaimer statement advising against inappropriate use. If the nature of the map product is such that a user could incorrectly consider it to be a survey product, the disclaimer must clearly state that the map is not a survey product.