

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 8, 2016

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: L'Oreal Stepney, P.E., Deputy Director
Office of Water

Docket No.: 2015-1000-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 293, Water Districts
HB 2767: Powers, Duties, and Administration of GCDs
Rule Project No. 2015-025-293-OW

Background and reason(s) for the rulemaking:

In 2015, the 84th Texas Legislature passed House Bill (HB) 2767, relating to the powers, duties, and administration of groundwater conservation districts and amending provisions that authorize fees. The bill makes non-substantive, conforming, or clarifying language changes throughout Texas Water Code (TWC), Chapter 36.

The adopted rules implement changes made by HB 2767. HB 2767 repeals TWC, §36.1082, Petition for Inquiry, and moves the repealed language without substantial change to TWC, §36.3011, Commission Inquiry and Action Regarding District Duties. The commission has existing rules that govern the amended TWC, §36.3011, and HB 2767 does not require any new rules or agency policies; therefore, this rulemaking will only update the definition of "affected person" and correct citations within Chapter 293 to bring the definition and citations into agreement with the changes made to the TWC by HB 2767.

No additional fees or procedures were adopted by HB 2767.

HB 2767 closely follows bill language that was developed by the Texas Water Conservation Association over the interim. This bill was authored by Representative Jim Keffer and was sponsored by Senator Charles Perry.

HB 2767 was effective June 10, 2015.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

The adopted rules implement changes made by HB 2767, which repeals TWC, §36.1082, and moves the repealed language without substantial change to TWC, §36.3011. This rulemaking will also update the definition of "affected person" and correct citations within Chapter 293 to bring the definition and citations into agreement with the changes made to the TWC by HB 2767.

B.) Scope required by federal regulations or state statutes:

None.

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C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

TWC, §5.102, which establishes the commission's general authority necessary to carry out its jurisdiction.

TWC, §5.103, which establishes the commission's general authority to adopt rules.

TWC, §5.105, which establishes the commission's authority to set policy by rule.

TWC, §36.3011, which allows an affected person to file a petition for inquiry.

Effect on the:

A.) Regulated community:

None.

B.) Public:

None.

C.) Agency programs:

None.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking; however, a rule public hearing was held at TCEQ headquarters in Austin on December 15, 2015, during the comment period. No comments were received at the hearing.

Public comment:

The agency received comments from the High Plains Underground Water Conservation District (High Plains UWCD) relating to a typographical error. Additionally, High Plains UWCD commented that the use of "district" is duplicative and unnecessary and recommended striking GCD from the proposed rules.

No changes were made in response to the comments because the typographical error had been corrected prior to publication and the language in the adopted rule is consistent with the statute.

Significant changes from proposal:

There are no changes from proposal to adoption.

Potential controversial concerns and legislative interest:

There are no controversial concerns or legislative interest related to commission implementation activities for this bill.

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Does this rulemaking affect any current policies or require development of new policies?

This rulemaking will not affect any current policies or require development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If this rulemaking does not go forward, the commission's rules will be inconsistent with statute. There are no alternatives to this rulemaking.

Key points in the adoption rulemaking schedule:

***Texas Register* proposal publication date:** November 20, 2015

Anticipated *Texas Register* adoption publication date: May 13, 2016

Anticipated effective date: May 19, 2016

Six-month *Texas Register* filing deadline: May 20, 2016

Agency contacts:

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Attachments

HB 2767

cc: Chief Clerk, 2 copies
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