

**SUBCHAPTER B: CONTRIBUTING ZONE TO THE EDWARDS AQUIFER IN MEDINA,  
BEXAR, COMAL, KINNEY, UVALDE, HAYS, TRAVIS, AND WILLIAMSON COUNTIES**  
**§§213.20 - 213.28**  
**Effective April 24, 2008**

**§213.20. Purpose.**

(a) The purpose of this subchapter is to regulate activities in the contributing zone to the Edwards Aquifer having the potential for polluting surface streams which recharge the Edwards Aquifer and to protect existing and potential beneficial uses of groundwater in the Edwards Aquifer.

(b) Nothing in this subchapter is intended to restrict the powers of the commission or any other governmental entity to prevent, correct, or curtail activities in the contributing zone that result or may result in pollution of the Edwards Aquifer or hydrologically connected surface waters. This subchapter is not exclusive and other rules also apply. In addition to the rules of the commission, the Texas general and individual permits for storm water discharges from construction activities and local ordinances and regulations providing for the protection of water quality may also apply to activities in the contributing zone.

(c) The executive director must review and act on contributing zone plans subject to this subchapter. The applicant or a person affected may file with the chief clerk a motion to overturn, under §50.139 (a), (b), and (d) - (g) of this title (relating to Motion to Overturn Executive Director's Decision), of the executive director's final action on a contributing zone plan or modification to a plan.

Adopted August 10, 2005

Effective September 1, 2005

**§213.21. Applicability and Person or Entity Required to Apply.**

(a) This subchapter applies only to the contributing zone as defined in §213.22 of this title (relating to Definitions) of the Edwards Aquifer. This subchapter is not intended to be applied to any other contributing zones for any other aquifers in the State of Texas.

(b) This subchapter applies only to regulated activities disturbing at least five acres, or regulated activities disturbing less than five acres which are part of a larger common plan of development or sale with the potential to disturb cumulatively five or more acres.

(c) Areas identified as contributing zone within the transition zone described by §213.22 of this title and delineated on the official recharge and transition zone maps of the agency as provided by §213.3 of this title (relating to Definitions), are subject to both the requirements of this subchapter governing the contributing zone and to the provisions of the recharge zone in §213.5(a)(3) and (4), (c)(3)(K), and (d) - (f) of this title (relating to Required Edwards Aquifer Protection Plans, Notification, and Exemptions); §213.6(a) and (b) of this title (relating to Wastewater Treatment and Disposal Systems); §213.7 of this title (relating to Plugging of Abandoned Wells and Borings); and to the transition zone provisions of §213.8(b) of this title (relating to Prohibited Activities).

(d) Unless otherwise provided under this subchapter, executive director approval of a contributing zone plan must be obtained prior to beginning construction of a new or additional regulated activity.

(e) Regulated activities are allowed to be conducted under this subchapter only by applicants who have a letter of contributing zone plan approval issued by the executive director. This letter is issued under §213.23 of this title (relating to Plan Processing and Approval).

(f) Applicable regulation for projects in progress when contributing zone or contributing zone within the transition zone designations are revised.

(1) For areas designated as contributing zone or contributing zone within the transition zone on official maps prior to the effective date of this subsection, and for which this designation did not change on the effective date of this subsection, all plans submitted to the executive director, on or after the effective date of this section, will be reviewed under all the provisions of this subchapter in effect on the date the plan is submitted.

(2) For areas that were newly designated as contributing zone or contributing zone within the transition zone on official maps on the effective date of this subsection, regulated activities will be considered to have commenced construction and will be regulated under the provisions of this chapter that were in effect at the time the plan was approved by the executive director if, on the effective date, all federal, state, and local approvals or permits required to begin physical construction have been obtained, and if either on-site construction directly related to the development has begun or construction commences within six months of the effective date of this section.

(3) The effective date of this subsection is September 1, 2005.

(g) Assumption of program by local government.

(1) A local governmental entity may assume the rights, duties, and responsibilities to review and either approve or deny contributing zone protection plan applications within its boundaries and monitor and enforce compliance with plans if the local government obtains certification from the executive director.

(2) In order to obtain certification, the local government must demonstrate:

(A) it has a water quality protection program equal to or more stringent than the rules contained in this subchapter, including, but not limited to, a program that:

(i) regulates activities covered under this chapter; and

(ii) has performance standards equal to or more protective of water quality;

(B) it has adopted ordinances or has other enforceable means sufficient to enforce the program throughout the local governmental entities jurisdiction; and

(C) it has adequate resources to implement and enforce the program.

(3) Upon approval of a request for certification under this subsection, the executive director shall enter into an agreement with the local governmental entity to provide for the terms and conditions of program assumption, including executive director oversight. Nothing in a certification or agreement shall affect the commission's ability to enforce its water quality protection rules or applicable state law.

(4) An agreement under paragraph (3) of this subsection shall not provide for the payment of fees required by this chapter to the local entity, and shall not provide for partial assumption of the program unless expressly authorized by the commission. Fees shall be paid to the commission.

(5) Certification must be for a term not to exceed five years, subject to renewal.

(6) Upon written notice, certification may be revoked or suspended by the executive director if the local entity does not meet the terms and conditions of the agreement provided under paragraph (4) of this subsection or fails to meet the criteria for certification provided under paragraph (2) of this subsection.

(7) A decision by the executive director under this subsection is not subject to appeal to the commission.

Adopted August 10, 2005

Effective September 1, 2005

#### **§213.22. Definitions.**

The definitions in Texas Water Code, §§26.001, 26.263, and 26.342, and in §213.3 of this title (relating to Definitions) apply to this subchapter. Those definitions have the same meaning unless the context in which they are used clearly indicates otherwise, or those definitions are inconsistent with the definitions listed in this section.

(1) **Best management practices** - Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the Edwards Aquifer and hydrologically connected surface streams. Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) **Contributing zone** - The area or watershed where runoff from precipitation flows downgradient to the recharge zone of the Edwards Aquifer. The contributing zone is illustrated on Contributing Zone (Southern Part) for the Edwards Aquifer and Contributing Zone (Northern Part) for the Edwards Aquifer. The contributing zone is located upstream (upgradient) and generally north and northwest of the recharge zone for the following counties:

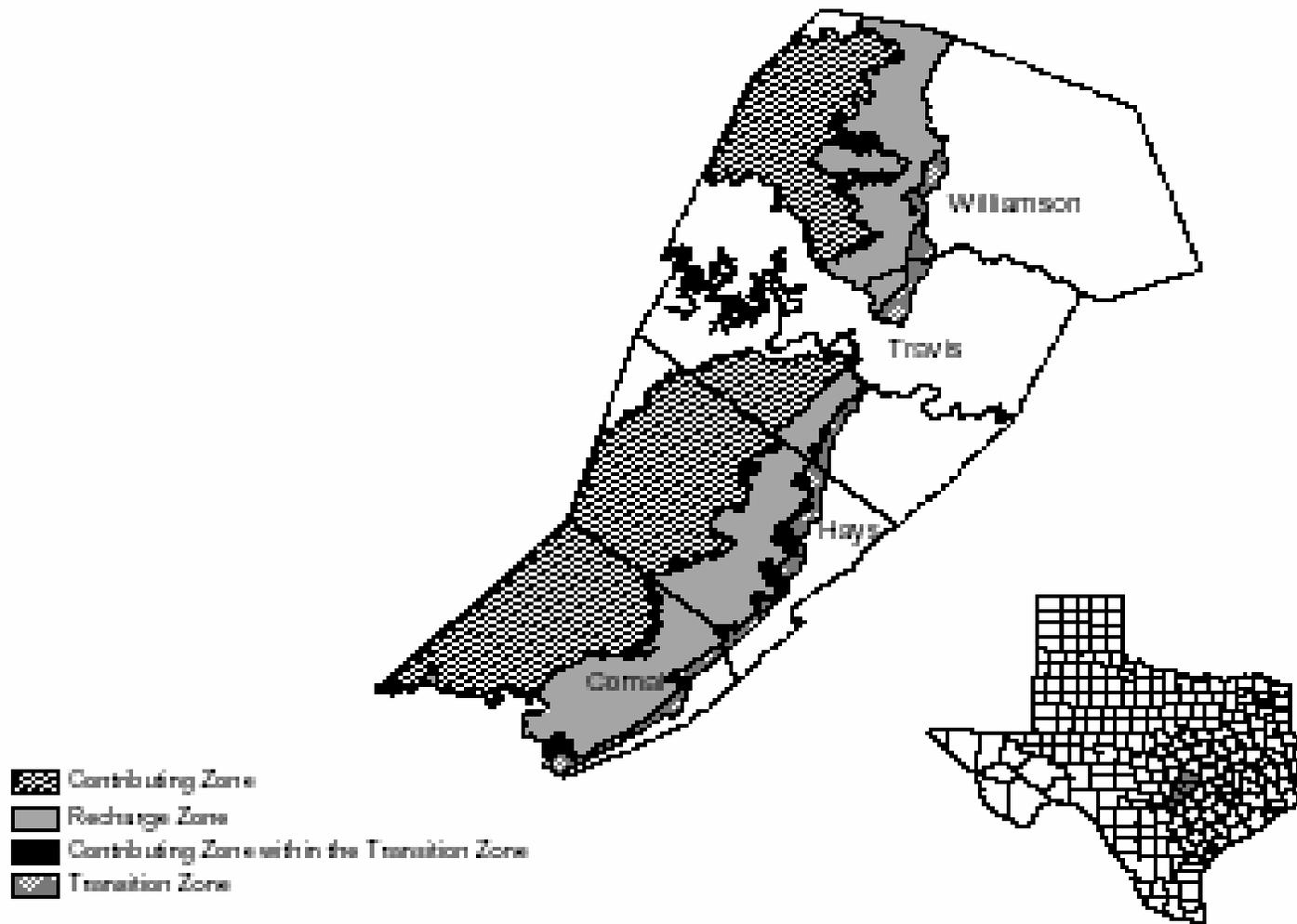


Figure 2: § 213.22 Contributing Zone (Northern Part) for the Edwards Aquifer



(A) all areas within Kinney County, except the area within the watershed draining to Segment 2304 of the Rio Grande Basin;

(B) all areas within Uvalde, Medina, Bexar, and Comal Counties;

(C) all areas within Hays and Travis Counties, except the area within the watersheds draining to the Colorado River above a point 1.3 miles upstream from Tom Miller Dam, Lake Austin at the confluence of Barrow Brook Cove, Segment 1403 of the Colorado River Basin; and

(D) all areas within Williamson County, except the area within the watersheds draining to the Lampasas River above the dam at Stillhouse Hollow reservoir, Segment 1216 of the Brazos River Basin.

(3) **Contributing zone within the transition zone** - The area or watershed where runoff from precipitation flows downgradient to the recharge zone of the Edwards Aquifer. The contributing zone within the transition zone is depicted in detail on the official recharge and transition zones maps of the agency as provided for in §213.3 of this title (relating to Definitions). The contributing zone within the transition zone is located generally south and east of the recharge zone and includes specifically those areas where stratigraphic units not included in the Edwards Aquifer crop out at topographically higher elevations and drain to stream courses where stratigraphic units of the Edwards Aquifer crop out and are mapped as recharge zone.

(4) **Texas Pollutant Discharge Elimination System permits for storm water discharges from construction activities (TPDES permits)** - Texas Pollutant Discharge Elimination System general or individual permits issued by the agency for storm water discharges from construction activities in Texas.

(5) **Notice of intent (NOI)** - Notice of intent required by the Texas Pollutant Discharge Elimination System general permits for storm water discharges from construction activities.

(6) **Regulated activity** -

(A) Any construction or post-construction activity occurring on the contributing zone of the Edwards Aquifer that has the potential for contributing pollution to surface streams that enter the Edwards Aquifer recharge zone.

(i) These activities include construction or installation of:

(I) buildings;

(II) utility stations;

(III) utility lines;

(IV) underground and aboveground storage tank systems;

(V) roads;

(VI) highways; or

(VII) railroads.

(ii) Clearing, excavation, or other activities which alter or disturb the topographic or existing storm water runoff characteristics of a site are regulated activities.

(iii) Any other activities that pose a potential for contaminating storm water runoff are regulated activities.

(B) "Regulated activity" does not include:

(i) the clearing of vegetation without soil disturbance;

(ii) agricultural activities, except feedlots/concentrated animal feeding operations that are regulated under Chapter 321 of this title (relating to Control of Certain Activities by Rule);

(iii) activities associated with the exploration, development, and production of oil or gas or geothermal resources under the jurisdiction of the Railroad Commission of Texas;

(iv) routine maintenance of existing structures that does not involve site disturbance including, but not limited to:

(I) the resurfacing of existing paved roads, parking lots, sidewalks, or other development-related impervious surfaces; and

(II) the building of fences, or other similar activities that present little or no potential for contaminating hydrologically-connected surface water;

(v) routine maintenance that involves little or no change to the topographic or geologic features; or

(vi) construction of single-family residences on lots that are larger than five acres, where no more than one single-family residence is located on each lot.

(7) **Site** - The entire area within the legal boundaries of the property described in the application. Regulated activities on a site located partially on the recharge zone and the contributing zone must be treated as if the entire site is located on the recharge zone, subject to the requirements under Subchapter A of this chapter (relating to Edwards Aquifer in Medina, Bexar, Comal, Kinney, Uvalde, Hays, Travis, and Williamson Counties).

**§213.23. Plan Processing and Approval.**

(a) Approval by executive director.

(1) No person may begin the construction of any regulated activity until a contributing zone plan or modification to a plan as required by §213.21 of this title (relating to Applicability and Persons or Entity Required to Apply) has been:

(A) filed with the appropriate regional office, and

(B) the application has been reviewed and approval letter issued by the executive director.

(2) The appropriate regional office shall provide copies of applications to affected incorporated cities, groundwater conservation districts, and counties in which the proposed regulated activity will be located. These copies will be distributed within five days of the application being determined to be administratively complete. Any person may file comments within 30 days of the date the application is mailed to local governmental entities. The executive director shall review all comments that are timely filed.

(3) A complete application for approval of a contributing zone plan, as described in this section, must be submitted with a copy of the notice of intent and the appropriate fee as specified in §213.27 of this title (relating to Contributing Zone Plan Application and Exception Fees). The application may be submitted to the executive director for approval prior to the submittal of the notice of intent to the EPA.

(b) Contents of application. Applications for contributing zone plan approval filed under this subchapter must be made on forms provided by or approved by the executive director. Each application must, at a minimum, include the following:

(1) the name of the development, subdivision, or facility for which the application is submitted and the name, address, and telephone number of the owner or any other persons signing the application;

(2) a narrative description of the location of the project or facility for which the application is submitted, presenting sufficient detail and clarity so that the project site and its boundaries can be located during a field inspection;

(3) a technical report as described under §213.24 of this title must accompany the application for plan approval; and

(4) any additional information needed by the executive director for plan approval.

(c) Submission of application.

(1) Submit one original and one copy for the executive director's review and additional copies as needed for each affected incorporated city, groundwater conservation district, and county in which the proposed regulated activities will be located. The copies must be submitted to the appropriate regional office.

(2) Only the following may submit an application for review and approval by the executive director:

(A) owner(s);

(B) the owner(s)' authorized agent(s); or

(C) those persons having the right to possess and control the property which is the subject of the contributing zone plan.

(d) Signatories to applications. All applications must be signed as specified under §213.4(d)(1) of this title (relating to Required Signature). The executive director requires written proof of authorization for any person signing an application.

(e) Executive director review. The executive director must complete the review of an application within 90 days after determining that it is administratively complete. The executive director must declare that the application is administratively complete or deficient within 30 days of receipt by the appropriate regional office. Grounds for a deficient application include, but are not limited to, failure to include all information listed in this section and failure to pay all applicable application fees.

(f) Additional provisions. As a condition of contributing zone plan approval, the executive director may impose additional provisions necessary to protect the Edwards Aquifer from pollution. The executive director may conditionally approve a contributing zone plan or impose special conditions on the approval of a contributing zone plan. Upon inspection, the executive director may require the applicant to take additional measures if the activities do not conform to an approved plan or the plan did not address all potential sources of pollution as required by these rules.

(g) Term of approval. The executive director's approval of a contributing zone plan will expire two years after the date of initial issuance, unless prior to the expiration date, substantial construction related to the approved plan has commenced. For purposes of this subsection, substantial construction is where more than ten percent of total construction has commenced. If a written request for an extension is filed under the provisions of this subsection, the approved plan continues in effect until the executive director acts on the request for an extension.

(1) A written request for an extension must be received not earlier than 60 days prior to the expiration date of an approved contributing zone plan or a previously approved extension. Requests for extensions are subject to fees outlined in §213.28 of this title (relating to Fees Related to Requests For Contributing Zone Plan Approval Extension).

(2) An executive director's approved extension will expire six months after the original expiration date of the approved contributing zone plan or a previously approved extension unless prior to the expiration date, commencement of construction, repair, or replacement related to the approved plan has occurred.

(3) A plan approval will expire and no extension will be granted if less than 50 percent of the total construction has been completed within ten years from the initial approval of a plan. A new plan must be submitted to the appropriate regional office with the appropriate fees for review and approval by the executive director prior to commencing any additional regulated activities.

(4) Any requests for extensions received by the executive director after the expiration date of an approved contributing zone plan or a previously approved extension will not be accepted. A new application for the purposes of this subchapter must be submitted to the appropriate regional office with the appropriate fees for the review and approval by the executive director.

(5) An extension will not be granted if the proposed regulated activity under an approved plan has changed.

(h) Legal transfer of property. Upon legal transfer of property, the new owner(s) is required to comply with all terms of the approved contributing zone plan. If the new owner intends to commence any new regulated activity on the site, a new application for plan approval for the new activity must be filed with and approved by the executive director beforehand.

(i) Modification of a previously approved plan. The holder of any approved contributing zone plan letter must notify the appropriate regional office in writing and obtain approval from the executive director prior to initiating any of the following:

(1) any physical or operational modification of any best management practices or structure(s), including but not limited to temporary or permanent ponds, dams, berms, silt fences, and diversionary structures;

(2) any change in the nature or character of the regulated activity from that which was originally approved;

(3) a change that would significantly impact the ability to prevent pollution of the Edwards Aquifer and hydrologically connected surface water; or

(4) any development of land previously identified in a contributing zone plan as undeveloped.

(j) Compliance. The holder of the approved or conditionally approved contributing zone plan letter is responsible for compliance with this subchapter and the approved plan. The holder is also responsible for any special conditions of an approved plan through all phases of plan implementation. Failure to comply with any rule or condition of the executive director's approval is a violation of this rule and is subject to administrative orders and penalties as provided under §213.25 of this title (relating to Enforcement). Such violations may also be subject to civil penalties and injunction.

(k) Responsibility for maintenance of permanent best management practices (BMPs) and measures after construction is complete.

(1) The applicant shall be responsible for maintaining the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the entity. Such entity shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred.

(2) A copy of the transfer of responsibility must be filed with the executive director at the appropriate regional office within 30 days of the assumption of the obligation or the transfer of ownership.

(3) This section applies to:

(A) multiple single-family residential developments, multi-family residential, and

(B) non-residential developments such as commercial, industrial, institutional, schools, and other sites where regulated activities occur.

Adopted June 26, 2002

Effective July 19, 2002

#### **§213.24. Technical Report.**

For all regulated activities, a technical report must accompany the application for contributing zone plan approval. The report must address the following issues. The site description, controls, maintenance, and inspection requirements for the storm water pollution prevention plan (SWPPP) developed under the Texas Pollutant Discharge Elimination System (TPDES) general permits for storm water discharges may be submitted to fulfill paragraphs (1) - (5) of this section, providing the following requirements are met.

(1) The report must contain a location map and the site plan.

(A) The location map must be a legible road map with directions, including mileage, which would enable the executive director to locate the site for inspection.

(B) The site plan must be drawn at a minimum scale of one inch to 400 feet. The site plan must show:

(i) the 100-year floodplain boundaries (if applicable);

(ii) the layout of the development, and existing and finished contours at appropriate, but not greater than ten foot contour intervals; and

- surface streams;
- (iii) a drainage plan showing all paths of drainage from the site to
- grading activities;
- (iv) the drainage patterns and approximate slopes anticipated after major
- (v) areas of soil disturbance and areas that will not be disturbed;
- the technical report;
- (vi) locations of major structural and nonstructural controls identified in
- (vii) locations where stabilization practices are expected to occur;
- (viii) surface waters (including wetlands); and
- (ix) locations where storm water discharges to a surface water.

(2) The report must describe the nature of the regulated activity (such as residential, commercial, industrial, or utility), including:

- (A) the size of the site in acres;
- (B) the projected population for the site;
- (C) the amount and type of impervious cover expected after construction is complete, such as paved surface or roofing;
- (D) the amount of surface area expected to be occupied by parking lots; and
- (E) other factors that could affect the surface water quality.

(3) The report must describe the volume and character of storm water runoff expected to occur. Estimates of storm water runoff quality and quantity should be based on area and type of impervious cover, as described in paragraph (2)(C) of this section. An estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions should be included in the report.

(4) The report must describe any activities or processes that may be a potential source of contamination and must provide the following information:

- (A) the intended sequence of major activities that disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities, and infrastructure installation);
- (B) estimates of the total area of the site that is expected to be disturbed by excavation, grading, or other activities;

(C) a site map indicating the following: approximate slopes anticipated after major grading activities; areas of soil disturbance; areas that will not be disturbed; locations of major structural and nonstructural controls identified in the technical report; locations where stabilization practices are expected to occur; surface waters (including wetlands); and locations where storm water discharges to a surface water;

(D) location and description of any discharge associated with industrial activity other than construction; and

(E) the name of the receiving water(s) at or near the site that will be disturbed or will receive discharges from disturbed areas of the project.

(5) The report must describe the temporary best management practices (BMPs) and measures that will be used during construction. The technical report must clearly describe for each major activity identified in paragraph (4) of this section appropriate control measures and the general timing (or sequence) during the construction process when the measures will be implemented. The SWPPP developed under the TPDES general permits for storm water discharges may be submitted to fulfill this part of the technical report providing the following requirements are met.

(A) BMPs and measures must prevent pollution of surface water or storm water that originates upgradient from the site and flows across the site.

(B) BMPs and measures must prevent pollution of surface water that originates on-site or flows off the site, including pollution caused by contaminated storm water runoff from the site.

(C) A plan for the inspection of the temporary BMPs and measures and for their timely inspection, maintenance, repair, and, if necessary, retrofit must be included in the report.

(D) BMPs and measures must meet the requirements contained in §213.5(b)(4)(D)(i) of this title (relating to Required Edwards Aquifer Protection Plans, Notification, and Exemptions).

(E) Temporary sediment pond or basin construction plans and design calculation for a proposed temporary BMP or measure must be prepared by or under the direct supervision of a Texas licensed professional engineer. All construction plans and design information must be signed, sealed, and dated by the Texas licensed professional engineer.

(F) The construction-phase erosion and sediment controls should be designed to retain sediment on site to the extent practicable.

(G) All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. If periodic inspections by the applicant or the executive director or other information indicates a control has been used inappropriately, or incorrectly, the applicant must replace or modify the control for site situations.

(H) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in street could be washed into surface streams or sensitive features by the next rain).

(I) Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 50%.

(J) Litter, construction debris, and construction chemicals exposed to storm water must be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily).

(6) The report must describe the permanent BMPs and measures that will be used after construction.

(A) BMPs and measures must prevent pollution of surface water or storm water originating on-site or upgradient from the site and flows across the site.

(B) BMPs and measures must prevent pollution of surface water downgradient of the site, including pollution caused by contaminated storm water runoff from the site.

(C) BMPs and measures must meet the requirements contained in §213.5(b)(4)(D)(ii) of this title.

(i) Construction plans and design calculations for the proposed permanent BMPs and measures must be prepared by or under the direct supervision of a Texas licensed professional engineer. All construction plans and design information must be signed, sealed, and dated by the Texas licensed professional engineer.

(ii) The technical report must contain a plan for the inspection of the permanent BMPs and measures and for their timely inspection, maintenance, repair, and, if necessary, retrofit, if requirements contained in §213.5(b)(4)(D) of this title are not being met. This plan must be prepared by the engineer designing the permanent BMPs and measures and signed by the owner or responsible party.

(iii) Pilot-scale field testing (including water quality monitoring) may be required for permanent BMPs and measures that are not contained in technical guidance recognized by or prepared by the executive director.

(I) When pilot-scale field testing of an innovative technology (including water quality monitoring) is required, only one pilot site will be approved.

(II) No additional approvals will be granted until the pilot study is complete and the applicant demonstrates adequate protection of surface water that enters the recharge zone of the Edwards Aquifer.

(III) If the innovative technology demonstrates adequate protection, additional units may be approved for use as permanent BMPs and measures on the contributing zone.

(IV) If the innovative technology demonstrates inadequate protection of surface streams that enter the recharge zone of the Edwards Aquifer, a retrofit of the permanent BMP may be required to achieve compliance with §213.5(b)(4)(D) of this title and no additional units will be approved for use on the contributing zone.

(7) The technical report must describe the measures that will be taken to avoid or minimize surface stream contamination, or changes in the way that water enters a stream as a result of construction and development. The measures should address the following:

(A) increased stream flashing;

(B) the creation of stronger flows and instream velocities; and

(C) other instream effects caused by the regulated activity that increase erosion that results in water quality degradation.

(8) The technical report must describe the method of disposal of wastewater from the site.

(A) If wastewater is to be disposed of by conveyance to a sewage treatment plant for treatment and disposal, the existing or proposed treatment facility must be identified.

(B) If wastewater is to be disposed of by an on-site sewage facility, the application must be accompanied by a written statement from the appropriate authorized agent, stating that the site is suitable for the use of private sewage facilities and will meet or exceed the requirements for on-site sewage facilities as specified under Chapter 285 of this title (relating to On-Site Sewage Facilities), or identifying those areas that are not suitable.

(C) If wastewater is to be discharged in the contributing zone, requirements under §213.6(c) of this title (relating to Wastewater Treatment and Disposal Systems) must be satisfied.

(9) The technical report must describe the measures that will be used to contain any spill of static hydrocarbons or hazardous substances such as on a roadway or from a pipeline or temporary aboveground storage tank system of 250 gallons or more.

(A) Temporary storage facilities are those used on site for less than one year.

(B) Temporary aboveground storage tank systems of 250 gallons or more cumulative storage capacity must be located a minimum horizontal distance of 150 feet from the five-year floodplain of any stream drainage.

(10) The technical report must indicate the placement of permanent aboveground storage tank facilities. Permanent aboveground storage tank facilities for static hydrocarbons and hazardous substances with cumulative storage capacity of 500 gallons or greater must be constructed, and spills removed using the standards contained in §213.5(e)(1) of this title.

(11) Exemption.

(A) Regulated activities exempt from the contributing zone plan application requirements under this section are:

(i) the installation of underground utilities, including:

(I) storm and sanitary sewage lines;

(II) natural gas lines;

(III) telephone lines;

(IV) electric lines; and

(V) water lines; and

(ii) the installation of underground tanks for the storage of static hydrocarbons and hazardous substances.

(B) An individual land owner who seeks to construct his/her own single-family residence or associated residential structures on the site is exempt from the contributing zone plan application requirements under this subchapter, provided that the land owner does not exceed 20% impervious cover on the site.

(C) Temporary erosion and sedimentation controls are required to be installed and maintained for exempted activities on the contributing zone. All temporary erosion and sedimentation controls must meet the requirements contained in paragraph (5) of this section, must be installed prior to construction, must be maintained during construction, and may be removed only when vegetation is established and the construction area is stabilized. This subparagraph does not apply to single-family residences on a site greater than five acres or on a site less than five acres and not a part of a common plan of development or sale with the potential to disturb cumulatively five or more acres.

(D) The executive director may monitor storm water discharges from these projects to evaluate the adequacy of the temporary erosion and sedimentation control measures. Additional protection will be required if the executive director determines that these controls are inadequate to protect water quality.

Adopted August 10, 2005

Effective September 1, 2005

**§213.25. Enforcement.**

Liability for penalties may result and may subject a noncompliant person to enforcement proceedings initiated by the executive director if there is failure to comply with:

- (1) any provision of this subchapter,
- (2) an approved or conditionally approved contributing zone plan or letter, or
- (3) any applicable regulation or order of the commission issued pursuant to this chapter and in accordance with Chapter 26 and other relevant provisions of the Texas Water Code or Texas Health and Safety Code.

Adopted September 23, 1998

Effective June 1, 1999

#### **§213.26. Exceptions.**

(a) Granting of exceptions. Exceptions to any substantive provision of this subchapter related to the protection of water quality may be granted by the executive director if the requestor can demonstrate equivalent water quality protection for surface streams which enter the recharge zone of the Edwards Aquifer. Prior approval under this section must be obtained from the executive director for the exception to be authorized.

(b) Procedure for requesting an exception. A person requesting an exception to the provisions of this subchapter relating to the protection of water quality must file an original and one copy of a written request with the executive director at the appropriate regional office stating in detail:

- (1) the name, address, and telephone numbers of the requestor;
- (2) site and project name and location;
- (3) the nature of the exception requested;
- (4) the justification for granting the exception as described in subsection (a) of this section; and
- (5) any other pertinent information that the executive director requests.

(c) Fees related to requests for exceptions. A person submitting an application for an exception, as described in this section, must pay \$500 for each exception request. The fee is due and payable at the time the exception request is filed, and should be submitted as described in §213.27 of this title (relating to Application Fees). If the exception request fee is not submitted in the correct amount, the executive director is not required to consider the exception request until the correct fee is submitted.

Adopted April 2, 2008

Effective April 24, 2008

#### **213.27. Application Fees.**

(a) The person submitting an application for approval or modification of any contributing zone plan under this subchapter must pay an application fee in the amount set forth in subsection (b) of this section. The fee is due and payable at the time the application is filed. The fee must be sent to either the appropriate regional office or the cashier in the agency headquarters located in Austin, accompanied by an Edwards Aquifer Contributing Zone Fee Application Form, provided by the executive director. Application fees must be paid by check or money order, payable to the "Texas Commission on Environmental Quality." If the application fee is not submitted in the correct amount, the executive director is not required to consider the application until the correct fee is submitted.

(b) For contributing zone plans and modifications to those plans, the application should be based on the classification and the total acreage of the site where regulated activities will occur as specified in Table 2 of this subsection.

Figure 30 TAC §213.27(b)

Table 2

CLASSIFICATION/NUMBER OF ACRES	FEE
One single-family residential dwelling on less than 5 acres	\$650
Multiple single-family residential dwellings and parks	
Less than 5 acres	\$1,500
5 acres to less than 10 acres	\$3,000
10 acres to less than 40 acres	\$4,000
40 acres to less than 100 acres	\$6,500
100 acres to less than 500 acres	\$8,000
500 acres or more	\$10,000
Non-residential (Commercial, industrial, institutional, multi-family residential, schools, and other sites where regulated activities will occur)	
Less than 1 acre	\$3,000
1 acre to less than 5 acres	\$4,000
5 acres to less than 10 acres	\$5,000
10 acres to less than 40 acres	\$6,500
40 acres to less than 100 acres	\$8,000
100 acres or more	\$10,000

Adopted April 2, 2008

Effective April 24, 2008

**§213.28. Fees Related to Requests for Extensions.**

The person submitting an application for an extension of an approval of any contributing zone plan under this subchapter must pay \$150 for each extension request. The fee is due and payable at the time the extension request is filed, and should be submitted as described in §213.27 of this title (relating to Application Fees). If the extension fee is not submitted in the correct amount, the executive director is not required to consider the extension request until the correct fee is submitted. The extension request must be submitted to the appropriate regional office and must include a copy of the contributing zone plan application and approval letter that is the subject of the extension request.

Adopted April 2, 2008

Effective April 24, 2008