

# **Water Shortage Reporting and Fire Flow Rule Stakeholder Meeting on Wednesday, September 18, 2013**

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## ***Water Shortage Reporting***

Overview Presentation:

House Bill (HB) 252 (83rd Regular Session, 2013)

Water shortage reporting by retail public utilities and providers of wholesale water service to the TCEQ is now mandatory when the utility or entity is reasonably certain that the water supply will be available for less than 180 days.

**Retail Public Utility:** any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

**Provider of Wholesale Water Supply:** provider of potable water or sewer service, or both, to a person, political subdivision, or municipality who is not the ultimate consumer of the service.

The TCEQ requests that systems report water supply, outage and maintenance issues using the existing reporting tool located at: <http://www.droughtreport.org/>

The TCEQ displays each system's Drought Contingency Plan's (DCP) information after standardizing the reported information to provide an apples-to-apples comparison which accounts for differences in local DCP standards. For example, the on-line tool includes these options under "Outdoor Water Restrictions:"

- V=Voluntary watering schedule
- 1=Mandatory watering schedule
- 2=No outside watering, limited hand-held hose use only
- 3=No outside water use
- NA=Not Applicable

and these reporting options are available under "Level of Concern:"

- W=Watch (the system currently has greater than a 180-day supply of water remaining)
- C=Concern (less than or equal to a 180-day supply of water)
- P=Priority (less than or equal to a 90-day supply of water)
- E=Emergency (less than or equal to a 45-day supply of water)
- O=Outage (the system is currently experiencing a water outage)
- R=Resolved (all drought-related issues have been resolved)

This allows the TCEQ and its partner agencies, Texas Department of Agriculture, Texas Department of Emergency Management, and the Texas Water Development Board to provide a coordinated and targeted assistance to the State's impacted systems.

### General Discussion:

Systems can also report their existing DCP information to the TCEQ by telephone, facsimile, or by regular mail. Additionally, the TCEQ's Small Business and Environmental Assistance (SBEA) maintains a **Drought Information Hotline (1-800-447-2827)** that is staffed during business hours (8 am - 12 pm and 1 pm - 5 pm, Central Standard Time). SBEA can assist callers with completing the on-line form.

It is up to the PWS to determine the amount of water supply available which can be too difficult, particularly for groundwater systems. HB 252 does not require the PWS hire a consultant or engineer to make that determination. Groundwater systems can measure their wells and consider how many "straws" are pulling from the aquifer to make their best determination. An example of when a notification should be made to TCEQ is if well(s) are pumping air. Surface water is less difficult to determine because it depends on the location of the intake. A system should use their best judgment when reporting.

### ***Fire Flow***

Overview:

HB 1814 (82nd Regular Session, 2011) and HB 1973 and Senate Bill (SB) 1086 (83rd Regular Session, 2013)

### *Presentation*

*Elston Johnson, TCEQ*

- HB 1814 (82<sup>nd</sup> legislature), HB 1973 (83<sup>rd</sup> legislature) and SB 1086 (83<sup>rd</sup> legislature).
- Comparison of the major points of the bills. They are very similar, but have some differences.

### HB 1814

- Passed in the 82<sup>nd</sup> legislative session.
- Currently there are public safety standards that only apply to the City of Houston.
- This bill pulls in 3 cities (Burlleson, Coppell and Lancaster), but is only in place if they have a utility in their jurisdiction.

### HB 1973 and HB 1086

- The bill defines "municipal utilities," "residential area" and "utilities."
- The requirement is for utilities to comply with the ordinances for fire flow set by municipalities.
- The definition of "utilities" is expanded to include public utilities and water and sewer supply corporations.

### SB 1086

- The bill defines "Industrial Districts." Basically, if an area is zoned as an industrial area then for purposes of the bill it should be defined as an "Industrial District," then the requirements of the bill will would apply in those areas.

#### Population Breakdowns

- HB 1973 applies to any city with a population of less than 1.9 million, which is every city except the City of Houston.
- SB 1086 applies to cities with a population of more than 7,000 and less than 30,000 located in a county with a population of more than 155,000 and less than 180,000; and (Buda and Kyle).
- SB 1086 applies to cities with a population of more than 11,000 and less than 18,000 located in a county with a population of more than 125,000 and less than 230,000.

#### HB 1973 and SB 1086

- HB 1973 states cities "may" adopt standards.
- HB 1086 states cities "shall" adopt standards.
- HB 1973 – Standard is minimum sufficient water flow of at least 250 gpm for at least 2 hours with a minimum pressure of 20 psi.
- SB 1086 – Standard is "not in excess" of 250 gpm for 2 hours and pressure not in excess of 20 psi.
- HB 1973 – Municipalities have the option to refer a utilities noncompliance with their fire flow ordinance to the TCEQ.
- SB 1086 – No option to refer a utility for noncompliance.
- HB 1973 – A municipality that adopts the standards or utilizes a utilities water supply for fire suppression must enter into a Memorandum of Understanding (MOU) with the utility.
- HB 1086 – Once a municipality's ordinances are adopted they must encourage the local emergency services district to enter into an MOU with the utility affected by the ordinance.
- MOUs will detail who is responsible for the necessary testing of fire hydrants; and other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with the ordinance.

#### General Discussion:

Differences in the definition of "residential area" and how to apply it relation to both bills. Clearly defining the intent of "residential area" is important because densities of service connections are taken into account when setting a fire flow standard.

- In HB 1973, "residential area" is defined as an area that's improved with at least 100 homes and is principally used for private residences with an average density of 1 home per 0.5 acres.
- In SB 1086, "residential area" is defined as an area designated as:
  - a residential zoning district by a governing ordinance or code or an area in which the principal land use is for private residences;

- a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face;
- a subdivision with a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

The applicability of all three bills was clarified:

HB 1814 only applies to Investor Owned Utilities (IOUs) located in the cities of Burleson, Coppell, and Lancaster.

HB 1973 and SB 1086 does not apply to Municipal Utility Districts (MUDs) but does apply to Water Supply Corporations (WSCs) and Investor Owned Utilities (IOUs) located in the jurisdictional boundaries, including the ETJ of a municipality.

Discussion on whether or not the fire flow standards apply to the utility as whole or just to areas within the municipality's boundaries. The intent of HB 1814, HB 1973 and SB 1086 is to apply to areas within the jurisdictional boundaries of the municipality including their ETJ and Industrial Districts for SB 1086.

Discussion on what counts as new construction in relation to the provision of HB1973 and SB 1086 that exempts utilities from having to retrofit existing infrastructure. Further review of the intent of HB 1973 and SB 1086 will be done to clarify in the rule package.

Discussion on whether or not cities have to adopt the standards set by the TCEQ, which is required by HB 1973, will be further reviewed to determine the intent of the bill language in the rule package.

Clarification was given that the requirements for both HB 1973 and SB 1086 are on new residential developments and not on individual fire hydrants. Essentially the requirements are for a residential area, which means the requirement applies to the entire system located in the jurisdictional boundaries of the applicable city.

The ability of a utility to recover costs for the implementation of the fire flow requirements through rate setting was discussed. A utility may be able to recover costs through rate setting after the infrastructure is in place.

Some additional concerns were expressed regarding the various fire departments role in the practical application of these bills. It was discussed that the bills are silent on the fire department's role in the implementation of these bills except for the requirements in SB 1086 mentioned above.

### ***Rulemaking Overview***

Discussed the rule project's tentative time line while emphasizing to the meeting's attendees that **all dates are tentative/subject to change**.

- Agenda for Proposal - February 2014
- Public comment period - Mid March to Mid April 2014
- Public Hearing – Early April 2014
- Agenda for Adoption - July 2014
- Rulemaking Effective - August 2014

This rulemaking can be tracked:

[http://www.tceq.texas.gov/rules/propose\\_adopt.html](http://www.tceq.texas.gov/rules/propose_adopt.html)  
by referring to Rule Project No.: **2013-047-290-OW**