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September 2008
SFR-074/08

Report to the Governor: Public Water System Capacity Development Program

printed on
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Water Supply Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Report to the Governor: Public Water System Capacity Development Program

Water Supply Division
Texas Commission on Environmental Quality
SFR-074/08
September 2008



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Published and distributed
by the
Texas Commission on Environmental Quality
PO Box 13087
Austin TX 78711-3087

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Executive Summary

The Texas Commission on Environmental Quality (TCEQ) is the primary state agency authorized to enforce the federal 1996 Amendments to the Safe Drinking Water Act and state and federal rules and regulations for public water systems¹. The TCEQ is also the agency responsible for the general supervision and oversight of water utilities.

The 1996 reauthorization of and Amendments to the federal Safe Drinking Water Act 1420 (c) (3) states:

Not later than 2 years after the date on which a state first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the state agency that has primary responsibility to carry out this title in the state shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial and financial capacity of public water systems in the state.

This third report to the Governor accounts for the TCEQ's implementation and enforcement authority for the drinking water program. This report will be made available to the public on the TCEQ's Web site.

At the close of the 2008 fiscal year (FY08) there were 6,832 known active public water systems in Texas. Of the 6,832 active public water systems, there are 4,682 active community water systems; 874 active nontransient noncommunity systems; and 1,276 active transient noncommunity systems. The 4,682 active community water systems are comprised of 3,136 retail water public utilities² of which 626 are private investor-owned utilities; 779 are water districts; 939 are municipalities; 784 are non-profit water supply corporations³, seven are county water systems and one is a Federal Government water system.

1. A *public water system* is defined as a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year.

2. A *retail public utility* is defined as 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.

3. A *water supply corporation* is defined as any nonprofit corporation organized and operating under Texas Water Code, Chapter 67, that provides potable water service for compensation and that has adopted and is operating in accordance with bylaws or articles of incorporation which ensure that it is member-owned and member-controlled. The term does not include a corporation that provides retail water to a person who is not a member, except that the corporation may provide retail water service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold.

Many divisions in the TCEQ deal with public water systems, including Water Supply, Field Operations, Compliance Support, Enforcement, Environmental Law, Litigation, Border Affairs, Operator Certification, and Small Business & Environmental Assistance.

One of the TCEQ's benchmarks for meeting its objectives is the percentage of Texans that get their drinking water from a public water system meeting or exceeding safe drinking water standards. To achieve this benchmark, the TCEQ recognizes that the future of water systems depends on their ability to plan for and achieve long-term compliance. The TCEQ has embarked on a program to ensure the financial, managerial, and technical capacities of public drinking water systems. Currently, 94 percent of people in Texas who get their water from a public water system are getting water that meets or exceeds the safe drinking water standards, an increase of 11.3 percent since October 2005. Furthermore, 95 percent of Texas Public Water Systems are currently protected by a source water protection program; and 95 percent of the Texas population is currently served by a Public Water System protected by a program which prevents connection between potable and non-potable water sources.

Although the public drinking water and the utilities programs had begun interacting informally long before their merger under the Texas Natural Resource Conservation Commission (predecessor agency to the TCEQ) in 1992, a formal initiative to address the viability of drinking water systems began in Texas in 1994.

After the 1996 Amendments to the Safe Drinking Water Act (SDWA) were adopted, the TCEQ renewed its commitment to this initiative under the Capacity Development Program through funding from a portion of the available set-asides from the SDWA's Drinking Water State Revolving Fund (DWSRF) which allows the state to set aside a portion of the capitalization grant to develop, implement, and maintain the program. The SDWA, along with provisions in Senate Bill 1 from the 1997 Texas legislative session and Senate Bill 2 from the 2001 Texas Legislative Session, provides the federal and state statutory framework to advance the viability of public water systems. From on-site financial, managerial, and technical assistance (FMT) to training and direct financial support available through the DWSRF, Texas is conducting a wide range of activities to promote the ability of public water systems to comply with drinking water standards.

The four main objectives of the TCEQ's Capacity Development Program are:

- Ensure that new systems are viable.
- Assess the viability of existing systems.
- Improve the viability of existing systems through assistance.
- Assist in restructuring nonviable systems.

Within these four objectives, the TCEQ promotes developing and maintaining financial, managerial, and technical capacity of individual and regional public water systems.

As the TCEQ continues to implement its existing system capacity development strategies, it is evident that to remain dynamic and effective, implementation

must include the flexibility to respond to the changing financial, managerial, and technical needs of Texas public water systems.

New Rules and Regulations

The 79th (2005) and 80th (2007) legislative sessions passed major revisions affecting TCEQ Certificate of Convenience and Necessity (CCN) map filing requirements, environmental review for water permitting, water conservation and rainwater harvesting, regulation of irrigation systems, CCN changes, designation of unique reservoir sites, and increased permitted groundwater withdrawals from the Edwards Aquifer (HB 2876, 2005; HB 3, 2007; HB 4, 2008 and SB 3, 2007).

Compliance and implementation with new rules and regulations can be enormous challenges for all water systems to overcome. For this reason, new federal drinking water requirements affecting water quality monitoring and treatment have also shifted focus to developing effective methods to help water systems achieve and maintain compliance with drinking water standards.

Security and Emergency Response

After September 11, 2001, homeland security provisions were added to assistance and training programs to strengthen existing emergency response plans for both natural and human-made disasters. The TCEQ has provided on-site assistance for water systems to develop federally required vulnerability assessments, provided security and emergency response checklists, and trained water system operators and managers to be better focused on emergency response. In addition, the TCEQ has been active in participating with the Governor's Task Force on Homeland Security, the Association of State Drinking Water Administrators (ASDWA) Security Committee, and the Texas Department of Emergency Management for staffing the State Operations Center.

Hurricane Rita—Collaborations in Capacity Development

Since the last TCEQ Public Water Supply Public Water System Report to the Governor was submitted in 2005, the TCEQ was in contact with hundreds of public water systems affected by Hurricane Rita. The lack of electrical power proved to be an immediate challenge for small systems to restore water service to the people of Texas. Generators were hard to come by and often the operators and owners of the water systems did not know what type and size of equipment they needed or how to hook it up.

To address this issue, the TCEQ identified some solutions for these situations utilizing both the DWSRF-funded FMT contract and a Homeland Security grant to provide necessary FMT assistance to vulnerable systems. Vulnerability assessment plans and emergency response plans are required for systems serving populations of over 3,300 people. Systems in particularly vulnerable areas of the state, such as the border and the coast, were surveyed to see if they had

emergency plans or if they wanted assistance from the TCEQ to develop them. If they had plans or successfully participated in assistance and joined either the Texas Water/Wastewater Agency Response Network (TxWARN) or Rural Water Emergency Assistance Cooperative (RWEAC), they would be eligible to have a contractor come out to build an electric harness that would be available to connect a generator during power outages.

Future Disaster Preparedness

The TCEQ is currently facilitating the Critical Facilities Infrastructure Mapping (CFIM) Project as a means of determining accurate locations of any component of critical infrastructure that is swept away or buried beneath debris after an emergency event. CFIM uses recognized coordinate systems (Universal Transverse Mercator (UTM), state plane, etc.) enabling personnel conducting air reconnaissance the increased ability to go directly to the specified impact zones and to support ground crews. The creation and maintenance of such a database will enable the particular needs of specific communities to be more readily addressed.

The TCEQ is directing the implementation of the Hach brand Eclox chemiluminescence toxicity and water quality test kits through a contract with Texas Engineering Extension Service (TEEX). The Eclox method targets the recommendations of the EPA in its emergency response protocols. Eclox water test kits have been provided to the cities of Austin, Corpus Christi, Dallas, Fort Worth, and San Antonio by the TCEQ to initiate acquisition of baseline data and a chemical study at specific water systems. Eclox water test kits may be used as a first line water testing tool to provide a broad indication of water quality. TEEX collects and analyzes water samples from all major metropolitan areas within the state, then enters the data into an Eclox-compatible data file system for use by the Water Supply Division and the participating regional offices. The information gained from the sampling is valuable to use in conjunction with the TCEQ's existing routine chemical sampling. This initial Eclox chemical project will evaluate the efficacy of Eclox units for future data collection.

Supply and Demand

The TCEQ is interested in any reasonable and affordable way public water systems can increase water availability and keep public drinking water systems compliant with Agency regulations and state or federal laws. New technologies, such as rainwater harvesting, desalination, conservation, reuse, regionalization, reclamation, and other approaches to match supply with demand continue to be noteworthy options to managing Texas' diminishing water supplies—whether because of drought or increased use and further compounded by population growth. The reduction of water supplies continually presents new challenges to public water systems.

BACKGROUND

The EPA required that states submit their strategies to address financial, managerial, and technical issues for new and existing public water systems for its approval. The TCEQ received the EPA's approval of its strategy for new public water systems on July 16, 1999. On July 6, 2000, the TCEQ received EPA approval of its strategy for existing public water systems. The EPA's approval of these strategies made Texas eligible to continue to receive yearly DWSRF grants of between \$50 and \$70 million to provide for low-interest loans to public water systems through the joint efforts of the TCEQ's public drinking water program and the TWDB's loan program. The joint DWSRF loan program helps ensure that Texas' drinking water supplies remain safe, adequate, and affordable and that those public water systems have access to the assistance needed to ensure that the system will be properly operated and maintained.

The objectives of the DWSRF loan program are:

- to address public health priorities;
- to achieve compliance with the Safe Drinking Water Act;
- to assist systems in providing affordable drinking water; and
- to maintain the long-term viability of the fund.

ENSURE VIABILITY OF NEW SYSTEMS

It is difficult to assess exactly how many new nonviable systems were prevented from being created as a result of the TCEQ's capacity development efforts. The realization that the TCEQ screens applicants for overall capability to operate might have stopped some of the applicants from creating or developing a new system. Now, groups or individuals considering the formation of a stand-alone water system must consider whether a stronger system might be formed by receiving service from an existing nearby water provider.

The activities listed below ensure a steady decrease in the number of Texans who are served by systems unable to sustain the overall capability necessary to provide continuous and adequate service. The objective is that fewer new systems will encounter the same financial, managerial, and technical problems being faced by existing problematic systems. Some of the areas examined during the business plan review and financial and managerial assessments process are revenue sufficiency; access to financial capital; fiscal management and controls; ownership accountability and staffing; and organization.

- The TCEQ adopted rules in February 1999 to begin implementing the mandates of legislation passed in 1997 that expanded the authority of the TCEQ to screen new public water systems (Senate Bill 1, 75th Texas Legislature, 1997). This legislation requires each new public water system to demonstrate that it is financially stable and technically sound. The new rules set forth the requirements for business plans and the demonstration of an overall operating capability for new retail public utilities. In the three years since the last Governor's Report, the TCEQ has performed 501 financial and managerial (FM) capability reviews of public water systems. Approximately 20 percent of 501 FM reviews consist of sale, transfer or merger actions which do not involve a new water system. TCEQ staff was able to identify useful modifications in approximately 1/3 of the remaining FM reviews. These modifications could be applied to the new system's business plan to ensure successful operation.
- The TCEQ adopted a regulatory guidance document, *The Feasibility of Regionalization*, which provides guidance in interpreting the rules adopted to implement Senate Bill , 75th Texas Legislature, 1997. This publication assists persons interested in establishing new water systems and those seeking to expand current water systems by guiding them through an analysis of the feasibility of regionalization. The following items address some regionalization issues.
- New proposed stand-alone public water systems are required first to attempt to obtain water service from all neighboring public water providers within one-half mile of the area to be served. The

proposed public water system must request service in writing and pay all application fees to the neighboring systems to demonstrate that it has attempted to obtain service. Before engineering plans and specifications for the new system can be approved, the neighboring systems must indicate they do not want to serve the proposed system or the proposed system must show that it is not feasible to obtain service from a neighboring system.

- Applicants for new CCNs must also demonstrate either that they have attempted to obtain water service from neighboring water systems (cities or water utilities) or that it would not be economically feasible to partner with those systems. To comply with this requirement, the applicant must investigate any system that is located within two miles of the intended service area of the proposed new stand-alone water utility.

- CCN applicants also are required to provide written public notice to all neighboring cities and water utilities within two miles of a proposed amended water service area and within five miles of a proposed new service area. In addition, the CCN applicant must publish notice in a local newspaper once a week for two consecutive weeks. This public notice requirement allows public water systems in the area an opportunity to contact the CCN applicant to explore system partnership opportunities.

- Proposed new water districts that apply to the TCEQ for creation must also provide public notice and must demonstrate that they are feasible and will be viable. Water districts that finance water system improvement through the use of bonds must have the TCEQ's approval of the proposed project and funding.

ASSESS VIABILITY OF EXISTING SYSTEMS

Assessing the overall viability of a public water system provides valuable information to the system owner and operators, the customers, funding agencies, the EPA, and the TCEQ about the strengths and weaknesses of public water systems. Often these assessments provide a type of assistance themselves.

- Each year the TCEQ's regional office staff conduct thousands of comprehensive compliance investigations (including sanitary surveys) of public water systems, as well as consumer complaint investigations. These investigations are followed up by letters informing the systems of their compliance status and what violations of the TCEQ rules and regulations, if any, were observed by the regional inspector. This information helps these systems and the TCEQ assess technical and managerial capabilities.
- If enforcement action is deemed necessary to ensure a public drinking water system is brought into compliance that action is pursued through the administrative process, and if that is not successful, through civil court. These actions typically culminate in administrative orders or judgments outlining appropriate corrective action.
- The TCEQ's sampling and monitoring program assesses the water quality of public water systems around the state. Water quality monitoring includes analyzing and reporting both microbiological and chemical water quality samples.
- The DWSRF includes a requirement that all public water systems interested in being considered as applicants be assessed and ranked by the state primacy agency for an *intended use plan*. Each year the TCEQ assesses the health and compliance factors as well as certain physical deficiencies of intended-use-plan applicants. This assessment results in a ranked list of public water systems that the TWDB uses to determine eligibility for funding under the DWSRF loan program. As required by the federal SDWA, systems proposing to solve the most serious water quality and quantity problems are given highest priority to use the fund.
- Once a public water system has been invited to participate in the DWSRF loan program, the SDWA requires an assessment of the system's overall capability to operate. The assessment is conducted by the TCEQ and includes a field evaluation and a review of the system's compliance history and current status. For a system to receive funding, the assessment report must show that the applicant already has the overall capability to operate or that the project proposed for funding will provide the applicant with the overall capability to operate.

- State legislation enacted in 1999 allows the TWDB to require entities interested in obtaining funding for water or wastewater projects from the Economically Distressed Area Program (EDAP) to first get the TCEQ to assess their overall capability to operate a system. Similar to the DWSRF assessments, these include a field assessment and a review of the system's compliance history and current status.
- Utilities applying for an amendment of their CCN service area are assessed to see whether they have the capability to provide adequate service to the proposed area. Final orders amending CCNs can require certain improvements to make sure the system remains viable and in compliance.
- Investor-owned utilities must get approval for rate changes from the TCEQ. During the rate-approval process, TCEQ staff assesses the utility's overall capability to operate. As with CCN orders, in rate orders, the TCEQ can require the utility to make any improvements needed to bring the system into compliance.
- Districts are required to file an annual audit report, which must certify that water district personnel received the required training and state whether there is any indication of financial weakness. In addition, the TCEQ staff reviews notable district creations and bond applications to determine whether a project is feasible, practicable, and a benefit to the district.
- The TCEQ Drinking Water Protection Team generates source water susceptibility assessment reports as a component of the Source Water Assessment and Protection program. These source water assessments help public drinking water systems protect their sources by generating information regarding each system's susceptibility to source water contamination. The assessments completed by June 2003 were provided to water system management for inclusion in Consumer Confidence Reports and subsequent implementation of local source water protection programs.
- For systems selected on the basis of health and compliance factors, the TCEQ will assess the system's overall capability to operate. Health and compliance factors are components of the DWSRF ranking process. The combined final factor is composed of weighted points for primary violations of maximum contaminant

levels, treatment technique violations, certain secondary violations, and population. The health and compliance factors allow for a ranking related to the risk of the population exposed. In addition to systems that are ranked for the intended use plan, in-depth assessments are being conducted for feasibility studies on groups of systems that are currently noncompliant and that may violate new drinking water standards.

IMPROVE VIABILITY OF EXISTING SYSTEMS

The TCEQ communicates with thousands of water system operators, managers, and customers each year. Regional and central office staff, as well as the TCEQ contractors, provide a wide variety of assistance over the phone, through written correspondence, the TCEQ web site and opportunities for personal interaction facilitated by training workshops and the popular “chat room” featured at the Water Supply Division’s Annual Public Drinking Water Conferences.

- The Water Supply Division hosted the Fifth Public Drinking Water Conference on August 19-20, 2008. The recurring theme was "Information and Tools for Public Water Systems and Utilities." A total of 823 people attended the conference, including 111 TCEQ staff and 113 exhibitors, outside speakers, with the remaining 599 attendees consisting of water operators, board presidents, managers, and engineers from across the state coming to learn more about drinking water. TCEQ staff gave 24 presentations on topics ranging from utility rate design, plan review requirements, emerging issues for both groundwater and surface water, chemical controls/monitoring and Stage Two Disinfection Byproducts rules.
- The Water Supply Division hosted the Fourth Public Drinking Water Conference on August 14-15, 2007. The recurring theme was "Information and Tools for Public Water Systems and Utilities." A total of 757 people attended the conference, including 103 TCEQ staff and 87 exhibitors outside speakers, with the remaining 567 attendees consisting of water operators, board presidents, managers, and engineers from across the state coming to learn more about drinking water. TCEQ staff gave 37 presentations on topics ranging from utility rate design, plan review requirements, emerging issues for both groundwater, and surface water, how to prepare for a TCEQ investigation, and stage two disinfection byproducts rules.
- The Water Supply Division hosted the Third Public Drinking Water Conference on August 15-16, 2006. The recurring theme was "Information and Tools for Public Water Systems and Utilities." A total of 749 people attended the conference, including 126 TCEQ staff and 90 exhibitors and outside speakers, with the remaining 533 attendees consisting of water system operators, board presidents, managers, and engineers from across the state coming to learn more about drinking water. TCEQ staff gave 34 presentations on topics ranging from utility financing, plan review requirements, emerging issues for both groundwater, and surface water, reducing unaccounted for water and Stage Two Disinfection Byproducts rules.
- One of the highlights of the Water Supply Division’s Public Drinking Water conferences is the “chat room” where staff is available in an informal setting to answer specific questions from the water system operators and managers. Both the TCEQ and the attendees learn from the

exchanges, forging a stronger partnership and understanding of the challenges faced by all involved in drinking water and utility regulation.

- In addition to having rules, regulations and forms available on the TCEQ Web site, public water systems and their customers have access to information about public water systems, utilities, and districts in Texas through the Water Utilities Database.
- The TCEQ learned from assistance providers and the public water system recipients that direct, on-site assistance is one of the most effective ways of improving the capability of existing public water systems. Based on this information, the FMT Assistance Contract, currently with the TRWA, has a detailed list of 84 tasks that can be assigned to a contractor. In 2007, over 400 assignments were made. The assignments included:
 - Financial assistance – developing and updating tariffs, rate analysis, funding sources;
 - Managerial assistance – a joint project of the FMT contract and Homeland Security Counter Terrorism focused on using FMT contractors and security funding to help systems too small for required Vulnerability Assessments and Emergency Response Plans, but with an interest in developing them;
 - Applications preparation and board training;
 - Technical assistance—disinfection byproducts, arsenic, sampling, water loss;
 - FMT assessments—for Drinking Water State Revolving Fund applicants and others as needed;
 - Consolidation assessments and assistance—to encourage and assist in regionalization;
 - EPA Needs Assessments; and
 - Special assignments – a major project was to assist the 2,133 water and 781 wastewater utilities in Texas with CCN mapping in meeting the filing requests of HB 2876, 79th Regular Session, 2005.

Consolidation Success Story:

The TCEQ made a referral to the FMT contractors to facilitate a consolidation between Glen Haven Utility Company (Glen Haven) and Glendale Water Supply Corporation (Glendale). Glen Haven provided service to approximately 90 connections and Glendale served approximately 340 connections. The major strategy used by the contractor for this consolidation was the promotion of economics of scale and improved customer service for those citizens served by Glen Haven. There were no objections to the consolidation raised by customers of either entity and the service provider transfer is progressing.

As of July 2008, the FMT contract includes an additional project to help small community water systems with populations of less than 501 people save in the costs of sampling for lead and copper. Currently, over 150 systems have benefited from this free regulatory assistance programs.

Other TCEQ Highlights

- Participation in a state, federal, and international work group to help public water systems along the border improve their financial, managerial, and technical capabilities and promote regionalization, where feasible.
- Working closely with training providers to encourage the availability and delivery of more training courses for operator certification.
- Sustaining an expedited bond review process to speed up the acquisition of funding for water districts.

Operator Certification Program

The TCEQ continues to provide licensing examinations, approve quality training, and issue occupational licenses. As of August 2008, there were 14,542 licensed water operators in Texas, reflecting an 8% increase since the 2005 Report. During FY08, the TCEQ has administered 4,619 water operator license exams and issued 5,180 new or renewed licenses.

- The Texas Small Public Water System Training Program, funded by an EPA Expense Reimbursement Grant, is in its second contract year. The TCEQ has contracted with Engitech, Inc., to administer the program. The grant pays for training and licensing fees for small public water systems that are community or nontransient, noncommunity systems serving a population of 3,300 or fewer. There are approximately 4,500 eligible small water system operators in Texas. The following benefits are offered by this grant program.
- *Coupon Training Program:* Eligible small water system operators may use any one of over seventy TCEQ approved training providers' courses to obtain, renew or upgrade a water license at no cost to the operator.
- *Cluster Training Program:* Eligible small water system operators may receive hands-on skills training at their water system at no cost to the operator.

- *Licensing Fees:* Eligible small water system operators do not have to pay exam and licensing fees. These are paid from the grant funds. During FY08, \$ 5,328 in licensing fees was paid with grant funds.

Information about the Texas Small Public Water System Training Program is available at: www.txsmallwater.org.

Other Activities

- Plans and specifications for new public water systems or system expansion and alterations are required to be submitted for review and approval. This review assists systems in making sure they meet applicable rules and regulations. During FY07 and FY08, the TCEQ staff has been received and reviewed 4,013 plans.
- The TCEQ manages the Texas Optimization Program, which is a voluntary program designed to enhance the overall operating ability of any existing utility and the performance of that utility's surface water treatment plants without major capital improvements. The goal of the program is to reduce the risk of waterborne disease by reducing the number of pathogenic organisms that pass through a treatment plant. The program provides in-depth assistance, training, and recognition to participating entities. The TCEQ is also working to enhance optimization of groundwater systems through the Area-Wide Optimization Program.
- Each year, the TCEQ provides managerial and technical support to public water systems by contracting with a vendor to collect nearly 12,000 water samples for chemical analysis from public water system entry points designated by the TCEQ.
- The TCEQ provides public water systems with notices of violations and information on notification; sampling; and other requirements based on the water sample results.
- Information from source water assessments is used to assist existing public water systems by helping to identify systems that need additional or reduced monitoring based on potential sources of contamination.
- The TCEQ developed model drought contingency plans for small systems and makes them available on the TCEQ website to assist public water systems in meeting the drought contingency plan submittal requirements. The TCEQ provides assistance across the state in drought plan preparation and enforcement and reviews drought and water conservation plans for compliance.

- The TCEQ assists public water systems in meeting the requirement to provide customers with Consumer Confidence Reports (CCRs) by providing training and generating the reports and a template. This report allows systems to make their customers aware of the quality of their drinking water. The TCEQ provides over 4,500 CCR templates to water systems annually.

- The TCEQ encourages and provides assistance to public water systems to help them come into compliance. If enforcement action is necessary, it may result in a compliance schedule. Failure to comply may result in penalties or receivership to ensure compliance.

ASSIST NONVIABLE SYSTEMS IN RESTRUCTURING

As the capacity development program continues, there is an increased focus on restructuring noncompliant, nonviable systems through regionalization and consolidation to bring them into compliance. Using current industry terminology and field practices, the TCEQ has defined regionalization to mean a combining of the operations and/or physical plants of two or more existing or proposed water and wastewater systems. The goal of regionalization is to achieve the best service at reasonable rates that will ensure that the system is maintained for the long term.

Regionalization can take the following different forms, depending on the individual circumstances:

- one owner and one large system serving several different communities or subdivisions;
- one owner and several isolated systems, each providing service to several communities or subdivisions;
- several owners, each with individual systems operated through a centrally coordinated operating system;
- several owners, each with an isolated system, all served by a central wholesale provider; and/or
- the existence of permanent emergency interconnections.

Regionalization is not a universal solution to capacity development. Significant challenges and barriers sometimes limit the effectiveness of the capacity development strategies. Sometimes community resistance to forming a larger regional system is strong, as citizens fear the prospect of losing local control and identity. In other cases, technical or financial barriers hinder capacity development—for example:

- In some areas, no new sources of water may be available.
- In other areas, alternative sources of water may be of poor quality. In certain areas of the state nitrate, arsenic, fluoride, radionuclides, and other naturally occurring contaminants are present in the only available new sources of water. The costs of treating this water and disposing of the associated wastes can be expensive.
- Many small water systems simply do not have access to sources of adequate and affordable funding.
- Finally, some public water systems are in such remote locations that neither interconnecting to another water system nor developing a new source are feasible.

The TCEQ encourages the restructuring of nonviable water systems as required by Senate Bill 1, 75th Texas Legislature, 1997, in the following ways:

- When ranking proposed DWSRF projects, the TCEQ promotes consolidation by offering additional points to entities proposing to provide water service to systems with violations.
- The TCEQ conducts a voluntary consolidation assessment and assistance program for interested entities. At the request of a public water system or on the agency's own initiative, the TCEQ can conduct a consolidation assessment to determine whether neighboring water systems should consider a partnership. To conduct a consolidation assessment, the TCEQ staff or its contractor contacts the public water systems to determine if a partnership is feasible and if the systems can reach an agreement on how to structure the partnership. First, it is determined if the entities are interested in participating in examining regionalization or restructuring options. If there is interest, the TCEQ or the contractors will facilitate community meetings to identify funding issues and possible solutions, as well as assist with any permits or other approvals necessary.
- In some instances, nonviable water systems are encouraged to restructure or regionalize through enforcement actions. This action facilitated the use of receiverships; authorized the requirement that public water systems and utilities have business plans; and enhanced TCEQ authority to order system interconnects, place a utility or public water system under supervision, or appoint a temporary manager to operate troubled or failing water systems and utilities. The system that is sold ends up with access to better financial, managerial, and technical resources.
- One of the TCEQ capacity development strategies is to restructure nonviable public water systems. In conjunction with the Office of the Attorney General of Texas, the TCEQ currently supervises 27 utilities that have been put into court-ordered receivership as part of a TCEQ enforcement action for drinking water or wastewater violations. Two public water systems in receivership, Lamar Water Supply Corporation (Lamar) and Oak Forest Water System (Oak Forest), both successfully transferred ownership from owners under enforcement to new entities that meet the TCEQ's financial, managerial, and technical requirements. The TCEQ staff, as well as the FMT contractors, provided assistance to help facilitate the Lamar and Oak Forest transfers.
- In FY2007, TCEQ established a receivership workgroup to meet with all programs involved in public drinking water enforcement as well as with the Office of the Attorney General. This work group provides a very useful forum to discuss problem systems, FMT assistance opportunities, and specific cases involving temporary managers and receivers.

- The TCEQ continues coordinated efforts with other governmental entities as well as utility assistance providers in Texas to determine whether regional projects are the best for customers of water systems. These entities include the United States Department of Agriculture's Rural Development Program, Texas Water Development Board (TWDB), Frank M. Tejeda Center, Community Resource Group, Border Environment Cooperation Commission, Office of Rural Community Affairs, Office of the Secretary of State, and the Texas Rural Water Association. The coordination efforts include the following:
 - streamlining the funding process to assist entities in developing their capacities as quickly as possible;
 - developing standardized forms and funding cycles to be used by the various agencies;
 - matching compliance needs and funding sources; and
 - soliciting input from the regulated community on their needs.

- The TCEQ provides outreach through numerous presentations at trade organization conferences and training programs. The groups receiving this service include the American Water Works Association, Texas Water Utility Association, Texas Rural Water Association, National Association of Regulatory Utility Commissioners, Independent Water and Sewer Companies of Texas, Texas Water Conservation Association, TCEQ's Drinking Water Advisory Work Group, Association of State Drinking Water Administrators, and the Association of Water Board Directors.

The 1996 reauthorization/Amendments of the federal Safe Water Drinking Act 1420 (c)(3) require this report on the achievements of the Capacity Development Program every three years. The ultimate goal of the Capacity Development Program is to ensure that our current capacity to deliver safe, reliable water is not only maintained, but is expanded to meet our future needs. The Capacity Development Program focuses support on public water systems, as they strive to maintain and expand their financial, managerial, and technical capacity, recognizing that all three types of capacity are vital. This report will be made available to the public in print and on the TCEQ's web site.