

WATER CODE

TITLE 2. WATER ADMINISTRATION

SUBTITLE D. WATER QUALITY CONTROL

CHAPTER 26. WATER QUALITY CONTROL

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

Sec. 26.0135. WATERSHED MONITORING AND ASSESSMENT OF WATER QUALITY.

(a) To ensure clean water, the commission shall establish the **strategic and comprehensive monitoring of water quality and the periodic assessment of water quality** in each watershed and river basin of the state. In order to conserve public funds and avoid duplication of effort, subject to adequate funding under Section 26.0291, **river authorities shall**, to the greatest extent possible and under the supervision of the commission, **conduct water quality monitoring and assessments in their own watersheds**. Watershed monitoring and assessments involving agricultural or silvicultural nonpoint source pollution shall be coordinated through the State Soil and Water Conservation Board with local soil and water conservation districts. The water quality monitoring and reporting duties under this section apply only to a river authority that has entered into an agreement with the commission to perform those duties. The commission, either directly or through cooperative agreements and contracts with local governments, shall conduct monitoring and assessments of watersheds where a river authority is unable to perform an adequate assessment of its own watershed. The monitoring program shall provide data to identify significant long-term water quality trends, characterize water quality conditions, support the permitting process, and classify unclassified waters. The commission shall consider available monitoring data and assessment results in developing or reviewing wastewater permits and stream standards and in conducting other water quality management activities. The assessment must include a review of wastewater discharges, nonpoint source pollution, nutrient loading, toxic materials, biological health of aquatic life, public education and involvement in water quality issues, local and regional pollution prevention efforts, and other factors that affect water quality within the watershed. The monitoring and assessment required by this section is a continuing duty, and the monitoring and assessment shall be periodically revised to show changes in the factors subject to assessment.

(b) In order to assist in the coordination and development of assessments and reports required by this section, a river authority shall organize and lead a basin-wide steering committee that includes persons paying fees under Section 26.0291, private citizens, the State Soil and Water Conservation Board, representatives from other appropriate state agencies, political subdivisions, and other persons with an interest in water quality matters of the watershed or river basin. Based on committee and public input, **each steering committee shall develop water quality objectives and priorities that are achievable considering the available technology and economic impact**. The objectives and priorities shall be used to develop work plans and allocate available resources under Section 26.0291. Each committee member shall help identify significant water quality issues within the basin and shall make available to the river authority all relevant water quality data held by the represented entities. A river authority shall also develop a public input process that provides for meaningful comments and review by private citizens and organizations on each basin summary report. A steering committee established

by the commission to comply with this subsection in the absence of a river authority or other qualified local government is not subject to Chapter 2110, Government Code.

(c) The purpose of the monitoring and assessment required by this section is to identify significant issues affecting water quality within each watershed and river basin of the state. Each river authority shall submit quality assured data collected in the river basin to the commission. The commission shall use the data to develop the statewide water quality inventory and other assessment reports that satisfy federal reporting requirements. The data and reports shall also be used to provide sufficient information for the commission, the State Soil and Water Conservation Board, river authorities, and other governmental bodies to take appropriate action necessary to maintain and improve the quality of the state's water resources. The commission shall adopt rules that at a minimum require each river authority to:

- (1) develop and maintain a basin-wide water quality monitoring program that minimizes duplicative monitoring, facilitates the assessment process, and targets monitoring to support the permitting and standards process;
- (2) establish a watershed and river basin water quality database composed of quality assured data from river authorities, wastewater discharge permit holders, state and federal agencies, and other relevant sources and make the data available to any interested person;
- (3) identify water quality problems and known pollution sources and set priorities for taking appropriate action regarding those problems and sources;
- (4) develop a process for public participation that includes the basin steering committee and public review and input and that provides for meaningful review and comments by private citizens and organizations in the local watersheds; and
- (5) recommend water quality management strategies for correcting identified water quality problems and pollution sources.

(d) In the appropriate year of the cycle provided by commission rules adopted to implement Section 26.0285, each river authority shall submit a written summary report to the commission, State Soil and Water Conservation Board, and Parks and Wildlife Department on the water quality assessment of the authority's watershed. The summary report must identify concerns relating to the watershed or bodies of water, including an identification of bodies of water with impaired or potentially impaired uses, the cause and possible source of use impairment, and recommended actions the commission may take to address those concerns. The summary report must discuss the public benefits from the water quality monitoring and assessment program, including efforts to increase public input in activities related to water quality and the effectiveness of targeted monitoring in assisting the permitting process. A river authority shall submit a summary report after the report has been approved by the basin steering committee and coordinated with the public and the commission. A river authority shall hold basin steering committee meetings and shall invite users of water and wastewater permit holders in the watershed who pay fees under Section 26.0291 to review the draft of the work plans and summary report. A river authority shall inform those parties of the availability and location of the summary report for inspection and shall solicit input from those parties concerning their satisfaction with or suggestions for modification of the summary report for the watershed, the operation or effectiveness of the watershed monitoring and assessment program authorized by this section, and the adequacy, use, or equitable apportionment of the program's costs and funds. A river authority shall summarize all comments received from persons who pay fees under Section 26.0291 and from steering committee

members and shall submit the report and the summaries to the governor, the lieutenant governor, and the speaker of the house of representatives not later than the 90th day after the date the river authority submits the summary report to the commission and other agencies.

(e) Each local government within the watershed of a river authority shall cooperate in making the assessment under Subsection (a) of this section and in preparing the report by providing to the river authority all information available to the local government about water quality within the jurisdiction of the local government, including the extraterritorial jurisdiction of a municipality.

(f) If more than one river authority is located in a watershed, all river authorities within the watershed shall cooperate in making the assessments and preparing the reports.

(g) For purposes of this section, solid waste and solid waste management shall have the same meaning as in Chapter 361, Health and Safety Code. Each river authority and local government is authorized and encouraged, but not required, to manage solid waste and to facilitate and promote programs for the collection and disposal of household consumer and agricultural products which contain hazardous constituents or hazardous substances and which, when disposed of improperly, represent a threat of contamination to the water resources of the state. Such programs may include the establishment of a permanent collection site, mobile collection sites, periodic collection events, or other methods which a river authority or local government may deem effective.

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section. Irrigation water rights, non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177.

(i) In this section: (1) "Quality assured data" means data that complies with commission rules for the water quality monitoring program adopted under Subsection (c)(1), including rules governing the methods under which water samples are collected and analyzed and data from those samples is assessed and maintained. (2) "River authority" means: (A) a river authority as defined by Section 30.003 of this code that includes 10 or more counties; and (B) any other river authority or special district created under Article III, Section 52, Subsection (b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution that is designated by rule of the commission to comply with this section.

(j) Repealed by Acts 2001, 77th Leg., ch. 965, Sec. 3.06, eff. Sept. 1, 2001.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 1, eff. June 7, 1991. Amended by Acts 1993, 73rd Leg., ch. 53, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 316, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 564, Sec. 1.01, eff. June 11, 1993; Acts 1993, 73rd Leg., ch. 746, Sec. 4, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.293, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 553, Sec. 1, eff. June 13, 1995; Acts 1997, 75th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 333, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1082, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 234, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 965, Sec. 3.05, 3.06, 16.03, 16.04, eff. Sept. 1, 2001. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1351, Sec. 1.24, eff. September 1, 2007. Acts 2007, 80th Leg., R.S., Ch. 1430, Sec. 1.24, eff. September 1, 2007. Acts 2009, 81st Leg., R.S., Ch. 1386, Sec. 6, eff. September 1, 2009.