

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §213.14, with changes to the proposed text as published in the July 8, 1997 issue of the *Texas Register* (22 TexReg 6400).

#### EXPLANATION OF ADOPTED RULE

The purpose of the amendments is to implement legislative changes to Texas Water Code, §26.0461(a) and (d) regarding Fees for Edwards Aquifer Plans, as enacted by House Bill (HB)1016, 75th Legislature (1997). Section 26.0461 (a), as amended, authorizes the commission to assess fees for processing Edwards Aquifer protection plans or amendment to plans and for inspecting the construction and maintenance of water quality protection measures. Section 26.0461 (d), as amended, raises the cap on any fee imposed under §26.0461 from \$2000 to \$5000. Based on a five-year average, the estimated annual fee revenue shortfall for the program under the current regulations is \$352,200. The adopted fees will generate sufficient revenue to cover this shortfall in periods of strong economic growth.

Section 213.14, Fee Schedule, contains the criteria for calculating the application fee for the review of an Edwards Aquifer protection plan and modifications to a plan. The water pollution abatement plan (WPAP) fee schedule for one single-family residential dwelling on less than 5 acres is \$500. The WPAP fee schedule for one single-family residential dwellings and parks reflects four categories based on size in acres with fees set at \$1,000 for less than 5 acres, \$2,000 for 5 to less than 10 acres, \$3,000 for 10 to less than 50 acres, and \$5,000 for sites 50 acres and greater. The fee schedule for non-residential (commercial, industrial, institutional, schools, and other sites where regulated activities will

occur) reflects four categories based on size in acres with fees set at \$2,000 for less than 1 acre, \$3,000 for 1 to less than 5 acres, \$4,000 for 5 to less than 10 acres, and \$5,000 for 10 acres and greater.

Sewage collection system plans and modifications are assessed a fee of \$.50 per linear foot, with a minimum fee of \$500 and a maximum fee of \$5,000. Underground or permanent aboveground storage tank system facility plans and modifications are assessed a fee of \$500 per tank or piping system, with a minimum fee of \$500 and a maximum fee of \$5,000.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this rule pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that Assessment. The specific purpose of the rule is to amend the regulations set forth in Chapter 213 to adjust the amounts of fees assessed on persons whose activities have the potential for polluting the Edwards Aquifer and hydrologically connected surface water. Promulgation and enforcement of this rule will not affect private real property which is the subject of the rule.

Promulgation and enforcement of these rules will not restrict or limit the owner's right to the property that would otherwise exist in the absence of the rulemaking. Owners of property that is used for activities having the potential for polluting the Edwards Aquifer and hydrologically connected surface water are presently required to submit an application for approval or modification of a plan as well as an application fee at the time the application is filed. This rulemaking, which to a large extent increases the amount of fees such owners will be responsible for paying, does not further restrict the right to the

property. Also, this rulemaking is not the producing cause of a reduction in the market value of the affected private real property. Therefore, this action does not create a burden on the affected private real property.

In addition, the Texas Government Code, §2007.003(b)(13), exempts from its coverage those governmental actions that are taken in response to a real and substantial threat to public health and safety, that are designed to significantly advance the health and safety purpose, and that do not impose a greater burden than is necessary to achieve the health and safety purpose. The proposed rulemaking will significantly contribute to prevention of the threat of pollution of the Edwards Aquifer, the sole or primary source of water for over 1.5 million people, by providing adequate resources to the agency to enable it to enforce the rules contained in Chapter 213, which in its entirety addresses a real and substantial threat to public health and safety, significantly advances the health and safety purpose, and does not impose a greater burden than is necessary to achieve that purpose.

#### COASTAL MANAGEMENT PROGRAM

The executive director has reviewed the proposed rulemaking and determined that it is not an action that may adversely affect a coastal natural resource area that is subject to the Coastal Management Program (CMP). The proposed rule does not govern any of the actions that must be subject to the goals and policies of the CMP, pursuant to 31 TAC §505.11.

## HEARINGS AND COMMENTERS

Public hearings on this rule were held in San Antonio on August 4, 1997 and in Austin on August 7, 1997, with oral testimony provided at both hearings. The comment period closed August 8, 1997. Comments on 26 different topic areas were provided by 51 commenters that were both general and specific on the overall proposal. The following 47 commenters generally supported the rules but suggested changes: State Representative Robert Puente, 41 individuals who are members of Clean Water Action (CWA) and the state program director for CWA, San Antonio Water System, Pape-Dawson Engineers, Regional Clean Air and Water Association, and an individual. One individual opposed the rule because it would not slow development. Two commenters did not generally voice support or opposition to the proposal, but suggested changes: an individual and Aquifer Guardians in Urban Areas. Northside Neighborhoods for Organized Development made statements about the program but offered no comment on the proposed rule.

**An individual, the state program director for CWA, NNOD, and RCAWA provided several comments that were beyond the scope of the proposed fee rule, and will not be addressed in this adoption preamble. However, the commission will consider these comments as the agency drafts the next phase of rules for the Edwards Aquifer protection program.**

State Representative Robert Puente commented that issues dealing with additional staff being hired for San Antonio or transfer of staff from Austin to San Antonio are best left up to the agency to decide where these resources are going to be used and how these increased fees are going to be spent.

The SAWS commented that the same level of service and compliance should be provided in both the Austin and San Antonio regions and that staffing allocation decisions should be based upon the following: the amount of Edwards Aquifer Recharge Zone for which each regional office is required to provide compliance activities; the number of WPAPs approved since permanent pollution abatement has been required to reflect the volume of inspection and/or compliance work that needs to be done to assure compliance with existing plans; the total number of submittals, including technical requests and cave letters, received annually; and the number of WPAPs submittals received annually. They suggest that these factors would more accurately reflect the total workload of each region and would allow for more equitable staffing between the regions rather than basing staffing allocations on just the number of WPAPs received by a region. An individual stated that currently fees were not being returned to the San Antonio field office and continued that there is a lack of sufficient personnel to adequately inspect the increasing development on the recharge zone and suggests that the additional fee revenue be added to the San Antonio field office budget so that they can do the job adequately. PDE commented that it was unfortunate that the proposed increase to the fees will only maintain the status quo and does not provide for any increase in staff above the existing staff. PDE also stated that there is no guarantee that the funds collected will stay in the region that collected the fee and that the Austin regional office gets 60 percent of the funding and staff with 40 percent of the submittals. PDE requested that funding by region would enable the San Antonio regional office to provide enforcement.

**The commission responds that the current allocation of positions in the San Antonio and Austin regional offices accurately reflects the percentage of program workload performed in each office.**

**At the end of each fiscal year (FY), the regional offices submit workload data to the deputy**

**director for the Office of Compliance and Enforcement. These data show that for the past several years the workload and amount of fees collected has been approximately 60 percent for the Austin Region and 40 percent for the San Antonio Region. Current staffing allocation is six full-time equivalent (FTE) staff for the Austin Region and four FTEs for the San Antonio office. The commission also notes that historically, fees collected for the program have not been sufficient to cover the full costs of program administration and oversight. As a result, the costs of operating the program have been supplemented by the state water quality fund and with United States Environmental Protection Agency non-point source program grants.**

State Representative Robert Puente commented that the development community supported the increase in fees to pay for more staff, for better staff, and for more communication capabilities so that the development community can have a quick turnaround on their plans. Individuals concerned about the potential pollution degradation of the aquifer sought the increase in fees to make sure that the agency had the capability and the staff to enhance communications to determine what is going on over the recharge zone, and to expertly review plans to make sure that what is proposed is not only good for the development community but for everyone else, the community at large. Puente noted that HB 1016 was an opportunity for the environmentalists, the quality control people, the developers, and the developing community to allow the commission to do its job and to have the attention that this particular part of the Edwards region needs. Forty-one individuals who are members of CWA and the state program director for CWA suggested that the increase in fees be used for better enforcement of water quality protection to ensure that San Antonio has a safe and reliable drinking water source in the future. The state program director for CWA suggested that fees need to be raised to support

enforcement but at the same time prevention is needed. The program director suggested that sufficient resources should be used to support better monitoring, to support better enforcement, to work with interested parties and the SAWS to find a way to improve development that is grandfathered from the San Antonio Water Quality Ordinance. SAWS suggested that the increased fees for larger projects will be a beneficial change if additional revenue is used to provide adequate staff for application review, site inspection and compliance investigations. The RCAWA commented that they agree with the increase in fees but stated that fees alone are not sufficient without follow-up. An individual commented that without follow-up with inspection and enforcement the rule is worthless. Another individual commented that there is no use in increasing the fees if the monies are not spent for monitoring the plans as they unfold and that the San Antonio Field Office monitoring efforts are inadequate.

**The commission agrees that increased effort should be directed toward performing more compliance monitoring inspections and enforcement. To that end, commission staff have recommended operational changes and are drafting rule changes that will result in a reduction in the amount of time required for plan review and approval which will free up staff resources to perform additional compliance monitoring inspections. The commission anticipates that operational changes will be implemented during the first quarter of FY 1998 and that rule changes will become effective during the third quarter of FY 1998.**

The SAWS commented that the lack of adequate staffing in the San Antonio region makes it difficult for existing staff to educate the development community and conduct compliance inspections in counties other than Bexar. They stated that there is an apparent lack of compliance with the Edwards rules in

counties west of San Antonio and present data that based on submittals of applications to the agency that indicates that no regulated activities have taken place in Kinney and Uvalde Counties in 1994 through 1996 and that one WPAP per year was the only regulated activity that took place in Medina County for the same period of time. PDE commented that they support the efforts to increase fees to strengthen the Edwards Aquifer program. PDE stated that the business community has once before taken the lead to increase fees, to add staff, and reduce review times; however, the fees were increased, but review times were never improved. PDE stated that there is no enforcement of the submitted plans and suggested that the fee modification proposals are a good initial step; however, additional efforts for review and enforcement must continue.

**The commission agrees that staffing constraints have limited education and compliance monitoring activities in counties west of Bexar and that increased effort should be directed toward performing more compliance monitoring inspections and enforcement which will include all counties regulated under 30 TAC §213. Commission staff are in the process of implementing operational changes and are drafting rule changes that will result in streamlining the plan review and approval process. As stated earlier, the implementation of this streamlining will free up staff resources to perform additional compliance monitoring inspections and will increase compliance with approved plans and enforcement in cases where non-compliance with 30 TAC §213 exists.**

PDE commented that staff continually working on technical guidelines and public hearing responses which never result in a final product or change in regulation, is a hindrance to the review and

enforcement under the program. The commenter suggested that the agency partner with SAWS or other agencies that could produce results in these areas.

**The commission responds that it is required under §26.046(b) of the Texas Water Code to hold annual public hearings to receive comment on the Edwards Aquifer protection program.**

**Comments received at public hearings in 1994 and 1995 resulted in a comprehensive rule revision which became effective in December 1996. Additional comments received at the 1996 hearings are being considered as commission staff proposes rules for a second phase of rulemaking which is expected to be proposed in November 1997. The commission believes that changes to operational procedures, technical guidelines, and rules have resulted in a more efficient program that protects the water quality of the Edwards Aquifer.**

AGUA commented that the recent issue of a new technical guidance document for public comment clearly steps back from the pollution prevention approach. They stated that the new guidance document does not specifically address issues such as recharge feature protection and that it eliminates classes of pollutants such as oil, grease, and lawn chemicals from regulatory control. They continued that the document downsizes the design criteria for pollution prevention structures and allows new sources of pollution and drinking water degradation, such as effluent application on the recharge zone. The commenter suggests that the agency work with community experts to conduct a program which preserves the aquifer.

**The commission believes that the commenter is referring to a very early draft of the Technical Guidance Manual that is currently undergoing extensive revision. The purpose of the manual is to offer a broad range of structural and non-structural best management practices (BMPs) that will continue to provide a high level of protection to the water quality of the aquifer. The first draft of the manual contained information about a number of BMPs that are used in Texas as well as other states. That draft was circulated for review and comment to several engineering firms in the San Antonio and Austin areas as well as to the City of Austin, the San Antonio Water System, the Barton Springs/Edwards Aquifer Conservation District, and the Texas Parks and Wildlife Department. As a result of the comments received, commission staff have determined that some BMPs are not appropriate for use in the Edwards Aquifer recharge zone and these have been deleted from the draft manual. The BMPs that will be included in the final version of the manual will be expected to achieve specific performance standards for pollutant removal. Additionally, staff is drafting a proposed rule that will require BMP performance standards. The commission is taking this approach because it believes that guidance documents should explain how compliance with the rules may be achieved but that they should not include substantive requirements that are not contained within rules. The commission will go through the rulemaking process when it intends to establish a requirement that is enforceable or criteria that an entity must meet in order to receive a permit or other authorization from the commission.**

An individual suggested that the proposed fee schedule invites high density residential subdivision and commercial developments by imposing a burdensome application fee on individuals wishing to build one single-family residence on 1 to 5 acres. The commenter suggested that the application fee is

relatively high for most individuals but no impediment to established developers who routinely build up to four houses per acre, or construct stores and strip centers with high vehicle traffic. Another individual commented that increasing the fee is not going to do anything to slow development and suggested that the \$3,000 fee may ease the conscience of people who prefer to develop over the recharge zone; however, the amount can be handled easily by the regulated community.

**The commission disagrees that the proposed fee schedule imposes a burdensome application fee on individuals wishing to build one single-family residence on less than 5 acres. However, for that category of development, the commission is amending the fee schedule to reflect a fee of \$500 for one single-family residence on less than 5 acres based on the level of effort required to review a WPAP for this type of application. Because the agency receives approximately 5 applications per year that would fall into this category, the decrease in fees will have no significant impact on the funding of the program. The commenter goes on to say that the rule does not distinguish between developers who build up to four houses per acre and developers who build one single-family residence on the same size area. The commission responds that the fee is not intended to slow development or to affect the degree of development on a given piece of land. The fee is designed to defray the expense arising from reviewing a WPAP filed with the commission and for administering the commission's regulation of activities occurring on and around the Edwards Aquifer.**

CWA commented that they support the raising of the fee of up to \$5,000. They stated that they are concerned that the aquifer is suffering from uncontrolled growth over the recharge zone and support a

fee structure to redirect development off the recharge zone. The state program director for CWA suggested that the fees be used as a green tax, such that if development is going to cause degradation and put others at a higher risk, then the development should pay for that degradation or potential degradation of a drinking water supply like the Edwards Aquifer. The commenter suggested that Senate Bill (SB) 633 from the 75th Legislative Session concerning the regulatory analysis of major environment rules should apply to this fee because this type of fee should equalize the risk to the cost to the community and to the public health and safety and should help with resources to the agency for protection of the public.

**The commission responds that the fee is designed to reimburse the costs incurred to review and evaluate an Edwards Aquifer protection plan, in accordance with HB 1016, which provides that the commission may impose fees for processing plans and for inspecting the projects covered by the plan. The statute does not authorize the commission to assess fees for other purposes. A commenter also stated that SB 633 should apply to this type of fee. The commission disagrees that this proposed rule is subject to SB 633 which applies to rules that exceed an express requirement of state law or that are adopted pursuant to an agency's general powers. The commission believes these proposed fees would be adopted pursuant to a specific statute and do not exceed express requirements in that statute.**

SAWS commented that the lack of reduced fees structure for one single family residence or two contiguous single-family residences (duplex) on less than five acres will favor denser residential development over individual homeowners. An individual commented that while application fees are

necessary to produce income to support the Edwards Aquifer protection program, a fee schedule which generates revenue based on pollutant load, size of project, and difficulty of technical review should be used. The individual suggested that 1 single-family residence, 1-5 acres in size should pay a fee of \$350 to shift the cost of doing business on the recharge zone from those typically least able to afford it to those who are more capable of spreading the financial burden. SAWS commented that the fee structure should include reduced fees for one single-family residence or two contiguous single-family residences (duplex) on less than five acres. They suggested the following changes to the fee structure for a new category for one single-family residence or two contiguous single-family residences based on size: 1 acre would pay a fee of \$300, more than 1 acre to less than 2 acres would pay a fee of \$350, 2 acres to less than 3 acres would pay a fee of \$400, 3 acres to less than 4 acres would pay a fee of \$450, and 4 to less than 5 acres would pay a fee of \$500. They state that a reduced fee structure for this category has been available to homeowners as an exception to the standard fees for several years and they suggest that these revisions would be consistent with current agency practices. They state that the agency review required for a single homesite is less rigorous than that required for a residential subdivision.

**The commission agrees that the potential for pollution and the complexity of technical review and inspections for one single-family residence on a less than 5-acre tract is not as significant as for a residential development which may contain 20 or more residences in the same size area. The commission is therefore amending the fee schedule to reflect a fee of \$500 for one single-family residence on less than 5 acres.**

SAWS commented that the minimum application fee for a 1 acre commercial-type sites should be raised to \$2,000. They also suggest that the fee for commercial-type sites that are 1 acre to less than 10 acres be split into two categories: 1 acre to less than 5 acres would pay \$3,000 and 5 to less than 10 acres would pay \$4,000. They suggested that public schools be moved into this fee category and out of the single-family residential dwellings category. They stated that commercial sites of less than one acre are a significant portion of the commercial WPAPs received and that these sites are often high traffic sites such as service stations, convenience stores, and small strip centers. They suggest that WPAPs for all commercial-type sites require an intensive review period and that sites that are less than one acre in size have parking areas which will require permanent pollution abatement measures for the treatment of stormwater run-off. Additionally, they commented that it is inconsistent to charge the same fee for a commercial-type site on less than one acre and a residential development on less than five acres because of the review time differences. An individual suggested that commercial and industrial projects including mass grading should be charged the following acres size fees: less than 1 acre, \$2,000; greater than or equal to 1 acre to 5 acres, \$3,000; greater than or equal to 5 acres to 10 acres, \$4,000; and greater than or equal to 10 acres, \$5,000.

**The commission agrees that the potential for pollution, the complexity of technical review, and the need for routine compliance monitoring inspections is greater for non-residential (commercial, industrial, institutional, and multi-family residential) projects than for residential developments. The commission is therefore amending the fee schedule for the non-residential (commercial) classification as follows: less than 1 acre, \$2,000; 1 acre to less than 5 acres, \$3,000; 5 acres to less than 10 acres, \$4,000; 10 acres or greater, \$5,000. The commission also agrees with the**

**comment to move schools, both public and private, from the residential to non-residential category and has amended the fee schedule to reflect this change. The change in fees will not significantly change the revenue generated by the program, and it is estimated (based on collections in FY 1996) that the maximum amount of new revenue generated by this change would be \$65,000 in any one year. It is not anticipated that the total incremental cost will increase total construction and developmental cost by a significant amount for any one project.**

The SAWS suggested an additional category for single-family residential subdivision and parks (without public schools) from the proposed single-family residential dwellings, parks, and public school category. They commented that the fees should remain the same as the proposed fees unless the WPAP will use permanent pollution abatement structures. For plans that use a permanent pollution abatement structure, the applicant should be charged a minimum of \$2,000 for sites of less than one acre, \$3,000 for sites of 1 acre to less than 5 acres, \$4,000 for sites 5 acres to less than 10 acres, and \$5,000 for sites greater than 10 acres. An individual suggests that for single-family residential subdivisions, parks, public schools, and road construction the following acres size fees should be used to generate revenue based on pollutant load, size of project, and difficulty of technical review: less than 5 acres, \$1,000; greater than or equal to 5 acres to 10 acres, \$2,000; greater than or equal to 10 acres to 25 acres, \$3,000; greater than or equal to 25 acres to fifty acres, \$4,000; and greater than or equal to 50 acres, \$5,000.

**The commission disagrees with the commenters' proposed fee structures. All plans will be using best management practices to achieve water quality protection. Some will be temporary (such as**

**silt fences for sediment control), some behavioral modification (such as education of workers on-site to use specific entrances to prevent soil from the site being carried to public roads and brochures distributed to home owners discussing prevention of nonpoint source pollution), and some will be permanent (such as impervious cover limits and sedimentation/filtration ponds). The fee is designed to defray the expense arising from reviewing a WPAP and for inspecting the construction and maintainance of all BMPs. The fee is tied to project size and potential impact to the aquifer and is not intend to affect the use or non-use of permanent pollution abatement practices.**

The SAWS commented that HB 1016 allows the commission to impose fees for inspecting the construction and maintenance of regulated sites. They suggest that an annual or biennial inspection fee should be instituted for all sites with permanent pollution abatement measures to allow for the allocation of additional staff to conduct compliance inspections. They also state that the fee would act as a reminder to responsible parties that they have a continuing obligation to maintain their permanent pollution abatement measures. AGUA advocated a permit fee structure which accurately reflects the important regulatory work the commission carries out in the Edwards Chapter 213 program. AGUA states that the highest level of the City of San Antonio political and water board officials met in advance of the legislative session to work with the agency staff on a long-standing request to increase fees and the effectiveness of the Edwards rules program. This group worked with the entire Bexar County delegation to provide for the administrative authority to increase fees and expand the fee program to include long-term inspection and enforcement fees. The commenter expressed that AGUA was disappointed that the commission ignored the explicit wish of the electorate on issues of program fees

and recommended that fees be implemented which will cover the cost of the Edwards Chapter 213 program at the application and enforcement stages.

**The commission responds that HB 1016, 75th Legislative session, allows the commission to increase the maximum fee imposed from \$2,000 to \$5,000 on real estate development projects. Consistent with the fiscal note accompanying HB 1016, the commission has interpreted the new fee provisions to authorize only one fee to be imposed per application, which would allow the recovery of current program costs of \$911,250. The commission has therefore devised a fee schedule that assesses a fee ranging from \$500 to \$5,000, per project, depending on the size and use of land, with the maximum fee assessed on the largest areas or higher potentially contamination risk activities. The revenue generated by these fees will also be used, for inspecting the construction and maintenance of projects as authorized by HB 1016.**

The SAWS commented that an annual report documenting the proper disposition of all Edwards program fees should be produced by the agency because HB 1016 state the fees “be used only for the commission’s Edwards Aquifer programs.” They suggested that this document be given to the Governor, members of the Natural Resources Committee of the Texas House, members of the Natural Resources Committee of the Texas Senate, and be available for public distribution at the Austin and San Antonio regional offices.

**The commission currently has a financial accounting system which tracks the receipt and disposition of all fees the agency uses for program activities. This information is available to all**

**interested parties. When combined with information on costs of administering the Edwards Aquifer protection program, the financial data can be used track the expenditure of funds generated by the Edwards Program.**

#### LEGAL AUTHORITY

These amended sections are adopted under Texas Water Code, §§5.103, 5.105, 26.011, and 26.341, and Texas Health and Safety Code, §361.024 and §366.012, which provide the commission with the authority to promulgate rules necessary for the exercise of its jurisdiction and powers provided by the Codes and other laws. Additionally, Texas Water Code, §26.046 requires the commission to hold an annual public hearing to receive evidence from the public on actions the commission should take to protect the Edwards Aquifer from pollution, §26.0461 allows the commission to impose fees for inspecting the construction and maintenance of projects covered by plans and for processing plans or amendments that are subject to review or approval under the commission's Edwards Aquifer rules, §26.121 prohibits unauthorized discharges, and §28.011 authorizes the commission to make and enforce rules for the protection and preservation of groundwater quality.

Issued in Austin, Texas, on

**SUBCHAPTER A : EDWARDS AQUIFER IN MEDINA, BEXAR COMAL, KINNEY,  
 UVALDE, HAYS, TRAVIS AND WILLIAMSON COUNTIES**

**§213.14**

**§213.14. Fee Schedule.**

(a) Water Pollution Abatement Plans. For water pollution abatement plans and modifications to those plans, the application fee shall be based on the classification and total acreage of the site where regulated activities will occur as specified in Table 1. **(Figure 1: §213.14(a))**

Table 1

<b>CLASSIFICATION/NUMBER OF ACRES</b>	<b>FEE</b>
One single-family residential dwelling on less than 5 acres	\$500
Multiple single-family residential dwellings and parks	
Less than 5 acres	\$1,000
5 to less than 10 acres	\$2,000
10 acres to less than 50 acres	\$3,000
50 acres or more	\$5,000
Non-residential (Commercial, industrial, institutional, multi-family residential, schools, and other sites where regulated activities will occur)	
Less than 1 acre	\$2,000
1 to less than 5 acres	\$3,000
5 to less than 10 acres	\$4,000
10 acres or more	\$5,000

(b) Organized sewage collection systems. For sewage collection system plans and modifications, the application fee shall be based on the total number of linear feet of all lines for which approval is sought. The fee shall be \$.50 per linear foot, with a minimum fee of \$500 and a maximum fee of \$5,000.

(c) Underground and aboveground storage tank facilities. For underground or permanent aboveground storage tank system facility plans and modifications, the application fee shall be based on the number of tanks or piping systems for which approval is sought. The fee shall be \$500 per tank or piping system, with a minimum fee of \$500 and a maximum fee of \$5,000.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on