

SUBCHAPTER A: GENERAL PROVISIONS
§§301.1 - 301.4, 301.6
Effective May 5, 2005

§301.1. Interpretation of Legislative Authority.

The legislature of the State of Texas manifested an intention to protect the public interest by establishing a centralized and coordinated method for planning and review of drainage and reclamation activity. The legislature demonstrated such an intent by causing levees or other improvements and associated projects to be subject always to the supervision of a central statewide authority. It is the purpose of the commission under Texas Water Code, Chapters 5, 16, and 57, to implement this policy by the promulgation of these sections.

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§301.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise.

(1) **As-built plans** - The engineering plans and specifications for levees or other improvements which reflect the structures as actually built, for which preliminary plans and final plans were approved, and which are submitted to the executive director for issuance of notice of final approval.

(2) **Final plans** - The final engineering plans and specifications for levees or other improvements submitted to the executive director for review and approval, if not an exempt structure under Texas Water Code, §16.236.

(3) **Levee(s) or other improvement(s)** - Any levee or other improvement, including channel improvements, drainage works, or other projects on, along, or near any stream in this state that is subject to floods, freshets, or overflows, constructed so as to control, regulate, or otherwise change the floodwater of the stream. However, the term does not include:

(A) levees or other improvements for which approval by the commission is not required under Texas Water Code, §16.236;

(B) bridges, culverts, and roads that are not designed or constructed with the primary purpose to and that do not significantly control, regulate, or otherwise change the floodwaters of a stream;

(C) drainage works which do not directly connect to a stream;

(D) projects which, when completed, will receive runoff from an area of less than five square miles measured to the lowest point of construction;

(E) fences;

(F) cutting, clearing, or removing vegetation; and

(G) levees and landfills located within the 100-year flood-fringe area, as defined in clauses (i) - (iv) of this subparagraph, as determined by a registered professional engineer using the United States Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the executive director;

(i) **100-year flood** - The peak flood discharge of a stream, based upon statistical data, which would have a 1.0% chance of occurring in any given year;

(ii) **100-year flood fringe** - That area of the 100-year floodplain outside the 100-year floodway;

(iii) **100-year floodplain** - That area along a stream during the time the stream is subject to the statistical 100-year flood, as determined by a registered professional engineer using the United States Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the executive director;

(iv) **100-year floodway** - The channel of a stream and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the 100-year flood elevation prior to encroachment.

(4) **Levee improvement district or district** - Any levee improvement district organized under the provisions of Texas Water Code, Chapter 57.

(5) **Preliminary plans** - The preliminary engineering plans for levees or other improvements submitted for approval by the commission under Texas Water Code, Chapter 16, as required by §301.33 of this title (relating to Preliminary Plans: Data To Be Submitted).

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§301.3. Authority To Go on Land.

The executive director may enter any land or go on any water with appropriate equipment for the purpose of surveillance and inspection with reference to the proposed location of levees or other improvements.

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§301.4. Approvals Required.

(a) The approval of the commission is required for preliminary plans for construction of levees and other improvements other than those which are exempt under Texas Water Code, §16.236. The procedure for submission and approval of preliminary plans for levees and other improvements other

than those which are exempt is set forth in Subchapter C of this chapter (relating to Approval of Levees and Other Improvements.)

(b) The review and/or approval of the executive director is required for final plans for levees and other improvements. The procedure for submission, review, and approval, if required, is set forth in §301.38 of this title (relating to Procedures Subsequent to Approval of Preliminary Plans).

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§301.6. Injunction and Monetary Penalties.

In accordance with Texas Water Code (TWC), §16.236(b) and (c), the executive director may request the attorney general to file suit in a district court of Travis County to enjoin any such violation or threatened violation of TWC, §16.236, to seek monetary penalties, or both.

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