

Effective Date: May 3, 2012

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Permanent Rule Change

Rule Project No. 2011-033-036-LS
House Bill 2694 (5.03): Water Curtailment

Chapter 36
Suspension or Adjustment of Water Rights During
Drought or Emergency Water Shortage

1. Purpose. This change transmittal provides the page(s) that reflect changes and additions to the Texas Commission on Environmental Quality (commission) Volume of Permanent Rules.
2. Explanation of Change. On April 11, 2012, the commission adopted new §§36.1 - 36.8.

Sections 36.2 - 36.8 were adopted *with changes* to the proposed text as published in the November 4, 2011, issue of the *Texas Register* (36 TexReg 7463). Section 36.1 is adopted *without change* to the proposed text and was not republished.

3. Effect of Change. These rules define "drought" and "emergency shortage of water," as well as other terms, and provide that the executive director may issue an order for the temporary suspension or adjustment of water rights during a rule would say that the hearing to affirm, modify, or set aside must be within 20 days of the issuance of the order, and must be preceded by at least ten days notice drought or emergency shortage of water, and set out the conditions that must apply. The priority doctrine will still govern in that senior water rights must be experiencing these conditions. The factors set out in the bill can also be considered in deciding which water rights should be suspended or adjusted. The order is for 180 days, unless otherwise specified in the order, and can be extended for 90 days per extension. The proposed rule provided that the order could be issued without notice and hearing, but a hearing must be held before the commission to affirm, modify, or set aside, with notice to all water rights affected. The adopted rule would say that the hearing to affirm, modify, or set aside must be within 20 days of the issuance of the order, and must be preceded by at least ten days notice.