TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Rulemaking Adoption

AGENDA REQUESTED: December 18, 2024

DATE OF REQUEST: November 26, 2024

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Gwen Ricco, Rule/Agenda Coordinator, (512) 239-2678

CAPTION: Docket No. 2024-0550-RUL. Consideration of the adoption of, proposed amendments to Sections 290.38, 290.45, and 290.46 of 30 TAC Chapter 290, Public Drinking Water and Sections 291.143 and 291.161 of 30 TAC Chapter 291, Utility Regulations.

The rulemaking adoption will amend 30 TAC Section 291.143 by changing the term for an emergency order appointing a temporary utility manager from a maximum of 180 days to no more than 360 days. The rulemaking adoption also includes the basis for renewing the emergency order under TWC, Section 13.4132. The rulemaking adoption will also amend 30 TAC Sections 290.46(w) and 290.46(w)(6), by adding requirements of notification by a nonindustrial public water supply system of an unplanned condition that causes a system outage, issuance of boil water notice, or other types of drinking water advisories. Additionally, the rulemaking adoption will amend 30 TAC Section 290.38(3)(B)(ii) and 30 TAC Chapter Section 291.161(1)(B)(ii) by revising the definition of "affected utility" with the new population of 800,000. Finally, the rulemaking adoption will amend 30 TAC Sections 290.38(18), and 290.45(j) to establish both a connection equivalency value and an alternative recreational vehicle park connection equivalency value used to determine the connection count for recreational vehicle parks that are retail customers of public water systems. The proposed rules were published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6165). (Rheaa Miller, Ruth Takeda; Rule Project No. 2024-015-290-OW)

Director

Michele Risko

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Copy to CCC Secretary? NO ☒

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** November 26, 2024

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: CML Cari-Michel La Caille, Director
Office of Water

Docket No.: 2024-0550-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 290, Public Drinking Water
Chapter 291, Utility Regulations
88th Legislative Session Drinking Water Implementation Rule
Rule Project No. 2024-015-290-OW

Background and reason(s) for the rulemaking:

During the 88th Texas Legislature (2023), House Bill (HB) 1500, authored by Justin Holland, HB 3810, authored by Brooks Langraf, HB 4559, authored by Drew Darby, and Senate Bill (SB) 594, authored by Judith Zaffirini passed and require amendments to 30 Texas Administrative Code (TAC) Chapter 290 and 30 TAC Chapter 291.

This rulemaking adoption will implement Texas Water Code (TWC), §13.4132 as enacted in HB 1500, which established a duration of 360 days for an emergency order appointing a temporary manager for a utility that has ceased operation or been referred for appointment of a receiver. HB 1500 is legislation associated to the Sunset review of the Public Utility Commission.

This rulemaking adoption will implement Texas Health and Safety Code (THSC), §341.033 as enacted in HB 3810, which requires a nonindustrial public water system to notify the Texas Commission on Environmental Quality (TCEQ) of an unplanned condition that causes a system outage, the issuance of a boil water notice, or other types of drinking water advisories.

This rulemaking adoption will implement TWC, §13.1395(a)(1) as enacted in HB 4559, which amended the definition of "affected utility" by changing the county population relating to the requirements for an affected utility to submit an Emergency Preparedness Plan to TCEQ.

Finally, this rulemaking adoption will implement THSC, §341.0315 (based on language in TWC, §13.087) enacted in SB 594, which requires TCEQ to establish by rule both a connection equivalency value and an alternative recreational vehicle park connection equivalency value used to determine the connection count for recreational vehicle parks that are retail customers of public water systems.

A.) Summary of what the rulemaking will do:
This rulemaking adoption amends 30 TAC §291.143 by changing the term of the temporary manager from 180 days to a term of no more than 360 days, based on the 360-day duration of the emergency order appointing a temporary manager. The adopted rule also includes the basis for renewing the emergency order under TWC, §13.4132.

This rulemaking adoption amends 30 TAC §290.46(w) and §290.46(w)(6) to implement THSC, §341.033 by adding requirements of notification by a nonindustrial public water system of an unplanned condition that causes a system outage or a boil water notice issuance or other types of drinking water advisories. The adopted language in (w)(6) includes an internal definition of "nonindustrial water system" and "unplanned condition."

This rulemaking adoption amends 30 TAC §290.38(3)(B)(ii) and 30 TAC §291.161(1)(B)(ii) to implement TWC, §13.1395(a)(1) by revising the definition of "affected utility" with the updated population of 800,000, which replaces 550,000. The revised definition determines which affected utilities are required to submit an Emergency Preparedness Plan to TCEQ.

This rulemaking adoption amends 30 TAC §290.38(18) and adopts new §290.45(j) to implement THSC, §341.0315. The rulemaking updates the definition of a connection for recreational vehicle parks that are retail customers of public water systems. In addition, the adopted language establishes both a recreational vehicle connection equivalency value and an alternative to the equivalency value.

B.) Scope required by federal regulations or state statutes:

This rulemaking adoption amends 30 TAC Chapter 290, specifically §§290.38, 290.45, and 290.46, as well as 30 TAC Chapter 291, specifically §291.143 and §291.161, based on state statutes TWC, §13.4132, THSC, §341.033, TWC, §13.1395, and THSC, §341.0315. No federal regulations apply.

C.) Additional staff recommendations that are not required by federal rule or state statute:

There are no additional staff recommendations.

Statutory authority:
THSC, §341.031 and §341.0315 and TWC, §§5.013, 5.102, 5.105. The rulemaking adoption implements legislation referenced herein: TWC, §13.4132(b-1) [HB 1500]; THSC, §341.033(i) and (i-1) [HB 3810]; TWC, §13.1395(a)(1) [HB4559]; and THSC, §341.0315(c) and (c-1) [SB 594].

Effect on the:

A.) Regulated community:

- **SB 594**: The rulemaking will update the connection count requirements for recreational vehicle parks that are retail customers of public water systems. The public water system will utilize a connection equivalency value or alternate recreational vehicle connection equivalency to determine the connection count for each recreational vehicle park that is a retail customer of the public water system.
- **HB 4559**: Based on the new population governing applicability, affected utilities within a county with a population of 800,000 adjacent to a county with a population of 3.3 million or more are required to have an Emergency Preparedness Plan in accordance with TWC, §13.1395. The rulemaking effectively maintains the applicability of TWC, §13.1394 and §13.1395 as set forth in originating legislation while accounting for population growth in the most recent census.
- **HB 1500:** The rulemaking will extend the timeframe for the appointment of a temporary manager from 180 days to 360 days and allows for renewals for a receiver to be appointed or a sale, transfer, or merger to be finalized.
- **HB 3810**: The rulemaking will require nonindustrial public water systems to notify TCEQ immediately when a condition has caused an outage or issuance of a boil water notice, do-not-use advisory, or do-not-consume advisory.

B.) Public:

- **SB 594**: None. The rulemaking will update the connection count requirements for recreational vehicle parks that are retail customers of public water systems. There are no anticipated effects to the public.
- **HB 4559**: None. The rulemaking effectively maintains the applicability of TWC, §13.1394 and §13.1395 as set forth in originating legislation while accounting for population growth in the most recent census.
- **HB 1500**: This rulemaking will provide continuity of operations for customers of a public water system with an appointed temporary manager until a receiver can be appointed, or a sale, transfer, merger, consolidation, or acquisition process is complete.
- **HB 3810**: This rulemaking could assist emergency resources to be allocated to the public impacted by an outage or advisory more readily.

C.) Agency programs:

- **SB 594**: TCEQ's Office of Compliance and Enforcement will continue to review and document connection counts and capacity requirements for public water systems. These reviews will determine public water system compliance based on the recreational vehicle park equivalency values and alternative equivalencies values.
- **HB 4559**: There are no changes to the TCEQ Emergency Preparedness Plan program from this rulemaking. The rulemaking effectively maintains the applicability of TWC, §13.1394 and §13.1395 as set forth in originating legislation while accounting for population growth in the most recent census.
- **HB 1500**: This rulemaking allows additional time for TCEQ to recommend a receiver or for the Public Utility Commission of Texas to complete a sale, transfer, merger, consolidation, or acquisition. TCEQ may experience reduced resource demands related to the administration of temporary manager renewals.
- **HB 3810**: The rulemaking will result in approximately 2,500 additional notifications to be tracked by TCEQ annually, as well as associated follow-up, enforcement activities, and coordination with the Texas Division of Emergency Management.

Stakeholder meetings:
As directed during the May 19, 2023, Senate Water, Agriculture and Rural Affairs committee hearing on HB 3810, staff worked with stakeholders at TCEQ's Drinking Water Advisory Workgroup meetings to discuss notification procedures.

Public Involvement Plan
No.

Alternative Language Requirements
Yes.

Public comment:
The commission offered a public hearing on September 12, 2024. The comment period closed on September 17, 2024. The commission received comments from Texas Rural Water Association (TRWA). The comments received were neither in support of nor against the rulemaking, rather, suggested changes to the proposed rule language.

Significant changes from proposal:
None.

Potential controversial concerns and legislative interest:
The regulated community expressed concerns about HB 3810 rule changes in the July and October 2023 Drinking Water Advisory Work Group meetings, particularly the ambiguity of situations which require notification.

Will this rulemaking affect any current policies or require development of new policies?
No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?
The adopted rule changes will make agency rules consistent with state statute. There are no alternatives to this rulemaking.

Key points in the adoption rulemaking schedule:
***Texas Register* proposal publication date:** August 16, 2024
Anticipated *Texas Register* adoption date: January 3, 2025
Anticipated effective date: January 9, 2025
Six-month *Texas Register* filing deadline: February16, 2025

Agency contacts:
Rheaa Miller, Rule Project Manager, Water Supply Division, (512) 239-5728
Ruth Takeda, Staff Attorney, Environmental Law Division, (512) 239-6635
Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:
HB 1500, HB 3810, HB 4559, SB 594

cc: Chief Clerk, 2 copies
Executive Director's Office
Jim Rizk
Krista Kyle
Jessie Powell
Office of General Counsel
Rheaa Miller
Ruth Takeda
Gwen Ricco

H.B. No. 1500

AN ACT

relating to the continuation and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region; increasing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.005, Utilities Code, is amended to read as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter or by Chapter 39, the commission is abolished [~~and this title expires~~] September 1, 2029 [~~2023~~].

SECTION 2. Section 12.059, Utilities Code, is amended to read as follows:

Sec. 12.059. TRAINING PROGRAM FOR COMMISSIONERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a [~~Before a commissioner may assume the commissioner's duties and before the commissioner may be confirmed by the senate, the commissioner must complete at least one course of the~~] training program that complies with [~~established under~~] this section.

(b) The [~~A~~] training program must [~~established under this~~

~~section shall~~] provide the person with information [~~to the commissioner~~] regarding:

(1) the law governing [~~enabling legislation that created the~~] commission operations [~~and its policymaking body to which the commissioner is appointed to serve~~];

(2) the programs, functions, rules, and budget of [~~operated by~~] the commission;

(3) the scope [~~role and functions~~] of and limitations on the rulemaking authority of the commission;

(4) the results [~~rules~~] of the most recent formal audit of the commission [~~with an emphasis on the rules that relate to disciplinary and investigatory authority~~];

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties [~~current budget for the commission~~]; and

(6) [~~the results of the most recent formal audit of the commission;~~

[~~(7) the requirements of Chapters 551, 552, and 2001, Government Code;~~

[~~(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~

[~~(9)~~] any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person [~~who is~~] appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3. Section 12.202, Utilities Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) The policies adopted under this section must require the agenda for each regular commission meeting to include public testimony as a meeting agenda item and allow members of the public to comment on:

(1) each meeting agenda item unrelated to a contested case; and

(2) other matters under the commission's jurisdiction.

(a-2) The commission may prohibit public comment at a regular commission meeting on a meeting agenda item related to a contested case.

SECTION 4. Section 12.203, Utilities Code, is amended to read as follows:

Sec. 12.203. BIENNIAL REPORT. (a) Not later than January

15 of each odd-numbered year, the commission shall prepare a written report that includes:

(1) suggestions regarding modification and improvement of the commission's statutory authority and for the improvement of utility regulation in general, including the regulation of water and sewer service under Chapter 13, Water Code, that the commission considers appropriate for protecting and furthering the interest of the public;

(2) a report on the scope of competition in the electric and telecommunications markets that includes:

(A) an assessment of:

(i) the effect of competition and industry restructuring on customers in both competitive and noncompetitive electric markets; and

(ii) the effect of competition on the rates and availability of electric services for residential and small commercial customers;

(B) an assessment of the effect of competition on:

(i) customers in both competitive and noncompetitive telecommunications markets, with a specific focus on rural markets; and

(ii) the rates and availability of telecommunications services for residential and business customers, including any effects on universal service; and

(C) a summary of commission action over the preceding two years that reflects changes in the scope of

competition in regulated electric and telecommunications markets; and

(3) recommendations for legislation that the commission determines appropriate to promote the public interest in the context of partially competitive electric and telecommunications markets.

(b) A telecommunications utility, as defined by Section 51.002, shall cooperate with the commission as necessary for the commission to satisfy the requirements of this section.

SECTION 5. Subchapter E, Chapter 12, Utilities Code, is amended by adding Section 12.205 to read as follows:

Sec. 12.205. STRATEGIC COMMUNICATIONS PLAN. The commission shall:

(1) develop an agency-wide plan for:

(A) improving the effectiveness of commission communications with the public, market participants, and other relevant audiences; and

(B) responding to changing communications needs;

(2) include in the plan required by Subdivision (1) goals, objectives, and metrics to assess commission efforts; and

(3) update the plan required by Subdivision (1) at least once every two years.

SECTION 6. Section 13.002, Utilities Code, is amended to read as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of Public Utility Counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by

that chapter, the office is abolished [~~and this chapter expires~~] September 1, 2029 [~~2023~~].

SECTION 7. Sections 15.023(b-1) and (f), Utilities Code, are amended to read as follows:

(b-1) Notwithstanding Subsection (b), the penalty for a violation of a voluntary mitigation plan entered into under Subsection (f) or of a provision of Section 35.0021 or 38.075 may be in an amount not to exceed $1,000,000 for a violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(f) The commission and a person may develop and enter into a voluntary mitigation plan relating to a violation of Section 39.157 or rules adopted by the commission under that section. The commission may approve the plan only if the commission determines that the plan is in the public interest. The voluntary mitigation plan must be reviewed at least once every two years and not later than the 90th day after the implementation date of a wholesale market design change. As part of the review, the commission must determine whether the voluntary mitigation plan remains in the public interest. If the commission determines that the voluntary mitigation plan is no longer in the public interest, the commission and the person must agree to a modification of the plan or the commission must terminate the plan. Adherence [~~If the commission and a person enter into a voluntary mitigation plan, adherence~~] to the plan must be considered in determining whether a violation occurred and, if so, the penalty to be assessed [~~constitutes an absolute defense against an alleged violation with respect to~~

~~activities covered by the plan~~].

SECTION 8. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.0022 to read as follows:

Sec. 35.0022. SERVICE INTERRUPTION NOTIFICATIONS. (a) This section applies only to a provider of electric generation service described by Section 35.0021(a).

(b) The commission by rule shall require a provider of electric generation service to provide to the independent organization certified under Section 39.151 for the ERCOT power region the reason for each unplanned service interruption. Not later than the third business day after the service is restored, the independent organization shall include the reason for each unplanned service interruption in a publicly available report published on the independent organization's Internet website.

SECTION 9. Section 35.004, Utilities Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(d) The commission shall price wholesale transmission services within ERCOT based on the postage stamp method of pricing under which a transmission-owning utility's rate is based on the ERCOT utilities' combined annual costs of transmission, other than costs described by Subsections (d-2) and (d-3), divided by the total demand placed on the combined transmission systems of all such transmission-owning utilities within a power region. An electric utility subject to the freeze period imposed by Section 39.052 may treat transmission costs in excess of transmission revenues during the freeze period as an expense for purposes of

determining annual costs in the annual report filed under Section 39.257. Notwithstanding Section 36.201, the commission may approve wholesale rates that may be periodically adjusted to ensure timely recovery of transmission investment. Notwithstanding Section 36.054(a), if the commission determines that conditions warrant the action, the commission may authorize the inclusion of construction work in progress in the rate base for transmission investment required by the commission under Section 39.203(e).

(d-1) The commission by rule shall establish a reasonable allowance for transmission-owning utility costs incurred to interconnect generation resources directly with the ERCOT transmission system at transmission voltage. The allowance must take into account:

(1) the potential to reduce the costs to consumers of generation interconnection;

(2) historical generation interconnection costs; and

(3) any other factor that the commission considers reasonable to accomplish the goal of this subsection.

(d-2) Costs in excess of the transmission-owning utility allowance provided by Subsection (d-1) incurred to interconnect generation resources with the ERCOT transmission system must be directly assigned to and collected from the generation resource interconnecting through the facilities.

(d-3) Not later than September 1 of every fifth year, the commission shall review and may adjust the allowance provided by Subsection (d-1) to account for inflation or supply chain issues.

SECTION 10. Section 36.053(d), Utilities Code, is amended

to read as follows:

(d) If the commission issues a certificate of convenience and necessity or if the commission, acting under the authority formerly provided by Section 39.203(e), ordered [~~orders~~] an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities to facilitate meeting the goal for generating capacity from renewable energy technologies under former Section 39.904(a), the commission shall find that the facilities are used and useful to the utility in providing service for purposes of this section and are prudent and includable in the rate base, regardless of the extent of the utility's actual use of the facilities.

SECTION 11. Section 37.0541, Utilities Code, is amended to read as follows:

Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The commission shall consolidate the proceeding on an application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line with the proceeding on another application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line if it is apparent from the applications or a motion to intervene in either proceeding that the transmission lines that are the subject of the separate proceedings share a common point of interconnection. [~~This section does not apply to a proceeding on an application for a certificate of convenience and necessity for a transmission line to serve a competitive renewable energy zone as part of a plan developed by the commission under Section 39.904(g)(2).~~]

SECTION 12. Sections 37.056(c) and (d), Utilities Code, are amended to read as follows:

(c) The commission shall grant each certificate on a nondiscriminatory basis after considering:

(1) the adequacy of existing service;

(2) the need for additional service;

(3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area; and

(4) other factors, such as:

(A) community values;

(B) recreational and park areas;

(C) historical and aesthetic values;

(D) environmental integrity; and

(E) the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted, including any potential economic or reliability benefits associated with dual fuel and fuel storage capabilities in areas outside the ERCOT power region[~~, and~~

[~~(F) to the extent applicable, the effect of granting the certificate on the ability of this state to meet the goal established by Section 39.904(a) of this title~~].

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region and[~~,~~] that is not necessary to meet state or federal reliability standards[~~, and that is not included in a plan~~

~~developed under Section 39.904(g)~~]. The criteria must include a comparison of the estimated cost of the transmission project for consumers and the estimated congestion cost savings for consumers that may result from the transmission project, considering both current and future expected congestion levels and the transmission project's ability to reduce those congestion levels. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

SECTION 13. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.078 to read as follows:

Sec. 38.078. CIRCUIT SEGMENTATION STUDY AND COST RECOVERY. (a) Not later than September 15, 2023, the commission shall direct each transmission and distribution utility to perform a circuit segmentation study.

(b) A circuit segmentation study must:

(1) use an engineering analysis to examine whether and how the transmission and distribution utility's transmission and distribution systems can be segmented and sectionalized to manage and rotate outages more evenly across all customers and circuits, while maintaining the protections offered to critical facilities;

(2) include an engineering analysis of the feasibility of using sectionalization, automated reclosers, and other technology to break up the circuits that host significant numbers of critical facilities into smaller segments for outage management purposes to enable more granular and flexible outage management;

(3) identify feeders with critical facilities that, if

equipped with facility-specific backup power systems and segmentation, can enhance the utility's outage management flexibility; and

(4) include an estimate of the time, capital cost, and expected improvements to load-shed management associated with the circuit segmentation study.

(c) Each transmission and distribution utility shall submit a report of the conclusions of the utility's study to the commission not later than September 1, 2024.

(d) The commission shall review each circuit segmentation study not later than March 15, 2025.

SECTION 14. Section 39.002, Utilities Code, as amended by Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

Sec. 39.002. APPLICABILITY. This chapter, other than Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160, 39.203, [~~39.904,~~] 39.9051, 39.9052, and 39.914(e), and Subchapters M and N, does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e) and[~~,~~] 39.203[~~, and 39.904, however,~~] apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION 15. Section 39.151, Utilities Code, is amended by amending Subsections (d), (g-1), and (g-6) and adding Subsection

(g-7) to read as follows:

(d) The commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, or may delegate those responsibilities to an independent organization [~~responsibilities for adopting or enforcing such rules. Rules adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the commission are subject to commission oversight and review and may not take effect before receiving commission approval~~]. An independent organization certified by the commission is directly responsible and accountable to the commission. The commission has complete authority to oversee and investigate the independent organization's finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties. The independent organization shall fully cooperate with the commission in the commission's oversight and investigatory functions. The commission may take appropriate action against an independent organization that does not adequately perform the organization's functions or duties or does not comply with this section, including decertifying the organization or assessing an administrative penalty against the organization. The commission by rule shall adopt procedures governing decertification of an independent organization, selecting and certifying a successor organization, and transferring assets to the successor organization to ensure

continuity of operations in the region. The commission may not implement, by order or by rule, a requirement that is contrary to an applicable federal law or rule.

(g-1) The [~~independent organization's~~] bylaws of an independent organization certified for the ERCOT power region [~~or protocols~~] must be approved by [~~the commission~~] and [~~must~~] reflect the input of the commission. The bylaws must require that every member of the governing body be a resident of this state and must prohibit a legislator from serving as a member. The governing body must be composed of:

(1) two members [~~the chairman~~] of the commission as [~~an~~] ex officio nonvoting members:

(A) one of whom must be the presiding officer of the commission; and

(B) one of whom must be designated by the presiding officer of the commission to serve a one-year term on the governing body [~~member~~];

(2) the counsellor as an ex officio voting member representing residential and small commercial consumer interests;

(3) the chief executive officer of the independent organization as an ex officio nonvoting member; and

(4) eight members selected by the selection committee under Section 39.1513 with executive-level experience in any of the following professions:

(A) finance;

(B) business;

(C) engineering, including electrical

engineering;

(D) trading;

(E) risk management;

(F) law; or

(G) electric market design.

(g-6) In this subsection, a reference to a protocol includes a rule. Protocols adopted by an independent organization and enforcement actions taken by the organization under delegated authority from the commission are subject to commission oversight and review and may not take effect before receiving commission approval. To maintain certification as an independent organization under this section, the organization's governing body must establish and implement a formal process for adopting new protocols or revisions to existing protocols. The process must require that new or revised protocols may not take effect until the commission approves a market impact statement describing the new or revised protocols. The commission may approve, reject, or remand with suggested modifications to the independent organization's governing body protocols adopted by the organization.

(g-7) The presiding officer of the commission shall designate commissioners to serve terms on the independent organization's governing body under Subsection (g-1)(1)(B) in the order in which the commissioners were first appointed to the commission. A commissioner may not serve an additional term until each commissioner has served a term.

SECTION 16. Section 39.1511, Utilities Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as

follows:

(a) Meetings of the governing body of an independent organization certified under Section 39.151 and meetings of a subcommittee that includes a member of the governing body must be open to the public. The bylaws of the independent organization and the rules of the commission may provide for the governing body or subcommittee to enter into executive session closed to the public only to address risk management or a matter that the independent organization would be authorized to consider in a closed meeting if the independent organization were governed under Chapter 551, Government Code [~~sensitive matters such as confidential personnel information, contracts, lawsuits, competitively sensitive information, or other information related to the security of the regional electrical network~~].

(a-1) An independent organization's governing body or a subcommittee may adopt a policy allowing the governing body or subcommittee to enter into an executive session closed to the public and commissioners, including the commissioners serving as ex officio nonvoting members, only to address a contested case, as defined by Section 2001.003, Government Code, or a personnel matter that is unrelated to members of the governing body.

SECTION 17. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1514 to read as follows:

Sec. 39.1514. COMMISSION DIRECTIVES TO INDEPENDENT ORGANIZATION. (a) The commission may not use a verbal directive to direct an independent organization certified under Section 39.151 to take an official action. The commission may direct the

organization to take an official action only through:

(1) a contested case;

(2) rulemaking; or

(3) a memorandum or written order adopted by a majority vote.

(a-1) The commission must use a contested case or rulemaking process to direct an independent organization certified under Section 39.151 to take an official action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity.

(b) The commission by rule shall:

(1) specify the types of directives the commission may issue through a contested case, rulemaking, memorandum, or written order, in accordance with Subsection (a-1);

(2) require that proposed commission directives be included as an item on a commission meeting agenda and require the commission to allow members of the public an opportunity to comment on the agenda item; and

(3) establish a reasonable timeline for the release before a commission meeting of discussion materials relevant to any proposed commission directives included as agenda items for that meeting.

(c) Notwithstanding another provision of this section, the commission may use a verbal directive to direct an independent organization to take an official action in an urgent or emergency situation that poses an imminent threat to public health, public safety, or the reliability of the power grid. If the commission

uses a verbal directive, the commission shall provide written documentation of the directive to the independent organization not later than 72 hours after the urgent or emergency situation ends. The commission by rule shall establish criteria for determining whether a situation is urgent or an emergency under this subsection and establish a process by which the commission will issue directives to the independent organization under this subsection.

SECTION 18. Section 39.1515, Utilities Code, is amended by amending Subsections (a) and (f) and adding Subsection (i) to read as follows:

(a) An independent organization certified under Section 39.151 shall contract with an entity selected by the commission to act as the commission's wholesale electric market monitor to detect and prevent market manipulation strategies, [~~and~~] recommend measures to enhance the efficiency of the wholesale market, and provide independent analysis of any material changes proposed to the wholesale market. The commission may not restrict the market monitor from appearing or speaking before or providing analysis to the legislature. The independent organization may not substantially modify the market monitor's contract unless the modification is approved by a majority of the commissioners.

(f) The market monitor immediately shall report in writing directly to the commission and commission staff all [~~any~~] potential market manipulations and all [~~any~~] discovered or potential violations of commission rules or rules of the independent organization.

(i) Not later than December 1 of each year, the commission

shall submit a report to the legislature that describes for the 12-month period preceding the report's submission:

(1) the number of instances in which the market monitor reported potential market manipulation to the commission or commission staff;

(2) the statutes, commission rules, and rules of the independent organization alleged to have been violated by the reported entities; and

(3) the number of instances reported under Subdivision (1) for which the commission instituted a formal investigation on its own motion or commission staff initiated an enforcement action.

SECTION 19. Section 39.155(d), Utilities Code, is amended to read as follows:

(d) In a qualifying power region, the report [~~reports~~] required by Subsection (c) [~~Subsections (b) and (c)~~] shall be submitted by the independent organization or organizations having authority over the power region or discrete areas thereof.

SECTION 20. Section 39.157(f), Utilities Code, is amended to read as follows:

(f) Following review of the annual report [~~reports~~] submitted to it under Section 39.155(c) [~~Sections 39.155(b) and (c)~~], the commission shall determine whether specific transmission or distribution constraints or bottlenecks within this state give rise to market power in specific geographic markets in the state. The commission, on a finding that specific transmission or distribution constraints or bottlenecks within this state give rise to market power, may order reasonable mitigation of that potential

market power by ordering, under Section 39.203(e), one or more electric utilities or transmission and distribution utilities to construct additional transmission or distribution capacity, or both, subject to the certification provisions of this title.

SECTION 21. The heading to Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, is amended to read as follows:

Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE GENERATION.

SECTION 22. Section 39.159, Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to develop and implement an ancillary services program to procure dispatchable reliability reserve services on a day-ahead and real-time basis to account for market uncertainty. Under the required program, the independent organization shall:

(1) determine the quantity of services necessary based on historical variations in generation availability for each season based on a targeted reliability standard or goal, including intermittency of non-dispatchable generation facilities and forced outage rates, for dispatchable generation facilities;

(2) develop criteria for resource participation that require a resource to:

(A) be capable of running for at least four hours

at the resource's high sustained limit;

(B) be online and dispatchable not more than two hours after being called on for deployment; and

(C) have the dispatchable flexibility to address inter-hour operational challenges; and

(3) reduce the amount of reliability unit commitment by the amount of dispatchable reliability reserve services procured under this section.

(e) Notwithstanding Subsection (d)(2)(A), the independent organization certified under Section 39.151 for the ERCOT power region may require a resource to be capable of running for more than four hours as the organization determines is needed.

SECTION 23. Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.1591, 39.1592, 39.1593, 39.1594, and 39.1595 to read as follows:

Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE GENERATION FACILITIES. Not later than December 1 of each year, the commission shall file a report with the legislature that:

(1) includes:

(A) the estimated annual costs incurred by load-serving entities under this subchapter associated with backing up dispatchable and non-dispatchable electric generation facilities to guarantee that a firm amount of electric energy will be available to the ERCOT power grid; and

(B) as calculated by the independent system operator, the cumulative annual costs that have been incurred in the ERCOT market to facilitate the transmission of dispatchable and

non-dispatchable electricity to load and to interconnect transmission level loads, including a statement of the total cumulative annual costs and of the cumulative annual costs incurred for each type of activity described by this paragraph; and

(2) documents the status of the implementation of this subchapter, including whether the rules and protocols adopted to implement this subchapter have materially improved the reliability, resilience, and transparency of the electricity market.

Sec. 39.1592. GENERATION RELIABILITY REQUIREMENTS. (a) This section applies only to an electric generation facility in the ERCOT power region for which a standard generator interconnection agreement is signed on or after January 1, 2027, that has been in operation for at least one year, and that is not a self-generator.

(b) Not later than December 1 of each year, an owner or operator of an electric generation facility, other than a battery energy storage resource, shall demonstrate to the commission the ability of the owner or operator's portfolio to operate or be available to operate when called on for dispatch at or above the seasonal average generation capability during the times of highest reliability risk, as determined by the commission, due to low operation reserves, as determined by the commission. The owner or operator must be allowed to meet the performance requirements described by this subsection by supplementing or contracting with on-site or off-site resources, including battery energy storage resources. The commission shall determine the average generation capability based on expected resource availability and

seasonal-rated capacity on a standalone basis.

(c) The commission shall require the independent organization certified under Section 39.151 for the ERCOT power region to:

(1) enforce the requirements of Subsection (b) by imposing financial penalties, as determined by the commission, for failing to comply with the performance requirements described by that subsection; and

(2) provide financial incentives, as determined by the commission, for exceeding the performance requirements described by that subsection.

(d) The independent organization certified under Section 39.151 for the ERCOT power region may not impose penalties under Subsection (c):

(1) for resource unavailability due to planned maintenance outages or transmission outages;

(2) on resources that are already subject to performance obligations during the highest reliability risk hours under the day-ahead market rules or other ancillary or reliability services established by the commission or the independent organization; or

(3) during hours outside a baseline established by the commission that includes morning and evening ramping periods.

Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a) The commission shall direct the independent organization certified under Section 39.151 for the ERCOT power region to evaluate with input from a technical advisory committee established under the

bylaws of the independent organization that includes market participants whether allocating the costs of ancillary and reliability services, including those procured under Section 39.159, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, using a methodology described by Subsection (b) would result in a net savings to consumers in the ERCOT power region compared to allocating all costs of ancillary and reliability services to load to ensure reliability.

(b) The commission shall evaluate whether to allocate the cost of ancillary and reliability services:

(1) on a semiannual basis among electric generation facilities and load-serving entities in proportion to their contribution to unreliability during the times of highest reliability risk due to low operating reserves by season, as determined by the commission based on a number of hours adopted by the commission for that season; or

(2) using another method identified by the commission.

(c) The evaluation must:

(1) use historical ancillary and reliability services data;

(2) consider the causes for ancillary services deployments; and

(3) consider the design, procurement, and cost allocation of ancillary services required by Section 35.004(h).

(d) Not later than December 1, 2026, the commission shall submit a report on the evaluation to the legislature.

Sec. 39.1594. RELIABILITY PROGRAM. (a) Under Section

39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, or other law, the commission may not require retail customers or load-serving entities in the ERCOT power region to purchase credits designed to support a required reserve margin or other capacity or reliability requirement unless the commission ensures that:

(1) the net cost to the ERCOT market of the credits does not exceed $1 billion annually, less the cost of any interim or bridge solutions that are lawfully implemented, except that the commission may adjust the limit:

(A) proportionally according to the highest net peak demand year-over-year with a base year of 2026; and

(B) for inflation with a base year of 2026;

(2) credits are available only for dispatchable generation;

(3) the independent organization certified under Section 39.151 for the ERCOT power region is required to procure the credits centrally in a manner designed to prevent market manipulation by affiliated generation and retail companies;

(4) a generator cannot receive credits that exceed the amount of generation bid into the forward market by that generator;

(5) an electric generating unit can receive a credit only for being available to perform in real time during the tightest intervals of low supply and high demand on the grid, as defined by the commission on a seasonal basis;

(6) a penalty structure is established, resulting in a net benefit to load, for generators that bid into the forward market

but do not meet the full obligation;

(7) any program reliability standard reasonably balances the incremental reliability benefits to customers against the incremental costs of the program based on an evaluation by the wholesale electric market monitor;

(8) a single ERCOT-wide clearing price is established for the program and does not differentiate payments or credit values based on locational constraints;

(9) any market changes implemented as a bridge solution for the program are removed not later than the first anniversary of the date the program was implemented;

(10) the independent organization certified under Section 39.151 for the ERCOT power region begins implementing real time co-optimization of energy and ancillary services in the ERCOT wholesale market before the program is implemented;

(11) all elements of the program are initially implemented on a single starting date;

(12) the terms of the program and any associated market rules do not assign costs, credit, or collateral for the program in a manner that provides a cost advantage to load-serving entities who own, or whose affiliates own, generation facilities;

(13) secured financial credit and collateral requirements are adopted for the program to ensure that other market participants do not bear the risk of nonperformance or nonpayment; and

(14) the wholesale electric market monitor has the authority and necessary resources to investigate potential

instances of market manipulation by program participants, including financial and physical actions, and recommend penalties to the commission.

(b) This section does not require the commission to adopt a reliability program that requires an entity to purchase capacity credits.

(c) The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall consider comments and recommendations from a technical advisory committee established under the bylaws of the independent organization that includes market participants when adopting and implementing a program described by Subsection (a), if any.

(d) Before the commission adopts a program described by Subsection (a), the commission shall require the independent organization certified under Section 39.151 for the ERCOT power region and the wholesale electric market monitor to complete an updated assessment on the cost to and effects on the ERCOT market of the proposed reliability program and submit to the commission and the legislature a report on the costs and benefits of continuing the program. The assessment must include:

(1) an evaluation of the cost of new entry and the effects of the proposed reliability program on consumer costs and the competitive retail market;

(2) a compilation of detailed information regarding cost offsets realized through a reduction in costs in the energy and ancillary services markets and use of reliability unit commitments;

(3) a set of metrics to measure the effects of the

proposed reliability program on system reliability;

(4) an evaluation of the cost to retain existing dispatchable resources in the ERCOT power region;

(5) an evaluation of the planned timeline for implementation of real time co-optimization for energy and ancillary services in the ERCOT power region; and

(6) anticipated market and reliability effects of new and updated ancillary service products.

(e) If the commission adopts a program described by Subsection (a), the commission by rule shall prohibit a generator that receives credits through the program for a dispatchable electric generating unit operated by the generator from decommissioning or removing from service that unit while the generator participates in the program unless the decommissioning or removal from service begins after September 1, 2028, or the commission finds that the decommissioning or removal from service:

(1) is required by or is a result of federal law; or

(2) would alleviate significant financial hardship for the generator.

(f) If the commission adopts a program described by Subsection (a), the wholesale electric market monitor described by Section 39.1515 biennially shall:

(1) evaluate the incremental reliability benefits of the program for consumers compared to the costs to consumers of the program and the costs in the energy and ancillary services markets; and

(2) report the results of each evaluation to the

legislature.

Sec. 39.1595. GRID RELIABILITY LEGISLATIVE OVERSIGHT COMMITTEE. (a) In this section, "committee" means the Grid Reliability Legislative Oversight Committee established under this section.

(b) The Grid Reliability Legislative Oversight Committee is created to oversee the commission's implementation of legislation related to the regulation of the electricity market in this state enacted by the 87th and 88th Legislatures.

(c) The committee is composed of eight members as follows:

(1) three members of the senate, appointed by the lieutenant governor;

(2) three members of the house of representatives, appointed by the speaker of the house of representatives;

(3) the chair of the committee of the senate having primary jurisdiction over matters relating to the generation of electricity; and

(4) the chair of the committee of the house having primary jurisdiction over matters relating to the generation of electricity.

(d) An appointed member of the committee serves at the pleasure of the appointing official.

(e) The committee members described by Subsections (c)(3) and (4) serve as presiding co-chairs.

(f) A member of the committee may not receive compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the

business of the committee as provided by the General Appropriations Act.

(g) The committee shall meet at least twice each year at the call of either co-chair and shall meet at other times at the call of either co-chair, as that officer determines appropriate.

(h) Chapter 551, Government Code, applies to the committee.

SECTION 24. (a) This section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

(b) Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.166, 39.167, and 39.168 to read as follows:

Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Not later than January 15 of each odd-numbered year, the commission, in consultation with the independent organization certified under Section 39.151 for the ERCOT power region, shall prepare and submit to the legislature an electric industry report.

(b) Each electric industry report submitted under this section must:

(1) identify existing and potential transmission and distribution constraints and system needs within the ERCOT power region, alternatives for meeting system needs, and recommendations for meeting system needs;

(2) summarize key findings from:

(A) the grid reliability assessment conducted under Section 39.165; and

(B) the report required by Section 39.9112;

(3) outline basic information regarding the electric grid and market in this state, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future; and

(4) be presented in plain language that is readily understandable by a person with limited knowledge of the electric industry.

Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission and the independent organization certified under Section 39.151 for the ERCOT power region annually shall review statutes, rules, protocols, and bylaws that apply to conflicts of interest for commissioners and for members of the governing body of the independent organization and submit to the legislature a report on the effects the statutes, rules, protocols, and bylaws have on the ability of the commission and the independent organization to fulfill their duties.

Sec. 39.168. RETAIL SALES REPORT. (a) Each retail electric provider that offers electricity for sale shall report to the commission:

(1) its annual retail sales in this state;

(2) the annual retail sales of its affiliates by number of customers, kilowatts per hour sold, and revenue from kilowatts per hour sold by customer class; and

(3) any other information the commission requires relating to affiliations between retail electric providers.

(b) The commission by rule shall prescribe the nature and detail of the reporting requirements. The commission may accept

information reported under other law to satisfy the requirements of this section. Information reported under this section is confidential and not subject to disclosure if the information is competitively sensitive information. The commission shall administer the reporting requirements in a manner that ensures the confidentiality of competitively sensitive information.

SECTION 25. (a) This section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

(b) Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.166, 39.167, and 39.168 to read as follows:

Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Not later than January 15 of each odd-numbered year, the commission, in consultation with the independent organization certified under Section 39.151 for the ERCOT power region, shall prepare and submit to the legislature an electric industry report.

(b) Each electric industry report submitted under this section must:

(1) identify existing and potential transmission and distribution constraints and system needs within the ERCOT power region, alternatives for meeting system needs, and recommendations for meeting system needs;

(2) summarize key findings from:

(A) the grid reliability assessment conducted under Section 39.159, as added by Chapter 876 (S.B. 1281), Acts of the 87th Legislature, Regular Session, 2021; and

(B) the report required by Section 39.9112;

(3) outline basic information regarding the electric grid and market in this state, including generation capacity, customer demand, and transmission capacity currently installed on the grid and projected in the future; and

(4) be presented in plain language that is readily understandable by a person with limited knowledge of the electric industry.

Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission and the independent organization certified under Section 39.151 for the ERCOT power region annually shall review statutes, rules, protocols, and bylaws that apply to conflicts of interest for commissioners and for members of the governing body of the independent organization and submit to the legislature a report on the effects the statutes, rules, protocols, and bylaws have on the ability of the commission and the independent organization to fulfill their duties.

Sec. 39.168. RETAIL SALES REPORT. (a) Each retail electric provider that offers electricity for sale shall report to the commission:

(1) its annual retail sales in this state;

(2) the annual retail sales of its affiliates by number of customers, kilowatts per hour sold, and revenue from kilowatts per hour sold by customer class; and

(3) any other information the commission requires relating to affiliations between retail electric providers.

(b) The commission by rule shall prescribe the nature and

detail of the reporting requirements. The commission may accept information reported under other law to satisfy the requirements of this section. Information reported under this section is confidential and not subject to disclosure if the information is competitively sensitive information. The commission shall administer the reporting requirements in a manner that ensures the confidentiality of competitively sensitive information.

SECTION 26. Sections 39.203(e) and (i), Utilities Code, are amended to read as follows:

(e) The commission may require an electric utility or a transmission and distribution utility to construct or enlarge facilities to ensure safe and reliable service for the state's electric markets and to reduce transmission constraints within ERCOT in a cost-effective manner where the constraints are such that they are not being resolved through Chapter 37 or the ERCOT transmission planning process. [~~The commission shall require an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities for the purpose of meeting the goal for generating capacity from renewable energy technologies under Section 39.904(a).~~] In any proceeding brought under Chapter 37, an electric utility or transmission and distribution utility ordered to construct or enlarge facilities under this subchapter need not prove that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E). Notwithstanding any other law, including Section 37.057, in any

proceeding brought under Chapter 37 by an electric utility or a transmission and distribution utility related to an application for a certificate of public convenience and necessity to construct or enlarge transmission or transmission-related facilities under this subsection, the commission shall issue a final order before the 181st day after the date the application is filed with the commission. If the commission does not issue a final order before that date, the application is approved.

(i) The commission, in cooperation with transmission and distribution utilities and the ERCOT independent system operator, shall study whether existing transmission and distribution planning processes are sufficient to provide adequate infrastructure for seawater desalination projects. If the commission determines that statutory changes are needed to ensure that adequate infrastructure is developed for projects of that kind, the commission shall include recommendations in the report required by Section 12.203 [~~31.003~~].

SECTION 27. Section 39.206(q), Utilities Code, is amended to read as follows:

(q) The commission shall, in conjunction with the Nuclear Regulatory Commission, investigate the development of a mechanism whereby the State of Texas could ensure that funds for decommissioning will be obtained when necessary in the same manner as if the State of Texas were the licensee under federal law. [~~The commission shall file legislative recommendations regarding any changes in law that may be necessary to carry out the purposes of this subsection prior to January 15, 2009, which may be combined~~

~~with the report required by Section 31.003.~~]

SECTION 28. Section 39.402(a), Utilities Code, is amended to read as follows:

(a) Until the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice, the rates of the utility shall be regulated under traditional cost of service regulation and the utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter, Sections 39.1516[~~, 39.904,~~] and 39.905, and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, shall not apply to that utility. That portion of any commission order entered before September 1, 2001, to comply with this subchapter shall be null and void.

SECTION 29. Section 39.408(g), Utilities Code, is amended to read as follows:

(g) This section expires September 1, 2029 [~~2023~~].

SECTION 30. Section 39.452(d), Utilities Code, is amended to read as follows:

(d) Until the date on which an electric utility subject to this subchapter implements customer choice:

(1) the provisions of this chapter do not apply to that electric utility, other than this subchapter, Sections 39.1516[~~,~~

~~39.904,~~] and 39.905, the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, and the provisions of Subchapter G that pertain to the recovery and securitization of hurricane reconstruction costs authorized by Sections 39.458-39.463; and

(2) the electric utility is not subject to a rate freeze and, subject to the limitation provided by Subsection (b), may file for rate changes under Chapter 36 and for approval of one or more of the rate rider mechanisms authorized by Sections 39.454 and 39.455.

SECTION 31. Section 39.4525(g), Utilities Code, is amended to read as follows:

(g) This section expires September 1, 2029 [~~2023~~].

SECTION 32. Section 39.502(b), Utilities Code, is amended to read as follows:

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.1516[~~, 39.904,~~] and 39.905, do not apply to that utility.

SECTION 33. Section 39.504(g), Utilities Code, is amended to read as follows:

(g) This section expires September 1, 2029 [~~2023~~].

SECTION 34. Section 39.552(b), Utilities Code, is amended to read as follows:

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this

chapter, other than this subchapter and Sections 39.1516[~~, 39.904,~~] and 39.905, do not apply to that utility.

SECTION 35. Section 39.9055, Utilities Code, is amended to read as follows:

Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF SEAWATER DESALINATION PROJECTS. The commission and the ERCOT independent system operator shall study the potential for seawater desalination projects to participate in existing demand response opportunities in the ERCOT market. To the extent feasible, the study shall determine whether the operational characteristics of seawater desalination projects enable projects of that kind to participate in ERCOT-operated ancillary services markets or other competitively supplied demand response opportunities. The study shall also determine the potential economic benefit to a seawater desalination project if the project is able to reduce its demand during peak pricing periods. The commission shall include the results of the study in the report required by Section 12.203 [~~31.003~~].

SECTION 36. Section 39.908, Utilities Code, is amended to read as follows:

Sec. 39.908. EFFECT OF SUNSET PROVISION. [~~(a)~~] If the commission is abolished under Section 12.005 or other law, the [~~and the other provisions of this title expire as provided by Chapter 325, Government Code (Texas Sunset Act), this subchapter, including the provisions of this title referred to in this subchapter, continues in full force and effect and does not expire.~~

[~~(b) The~~] authorities, duties, and functions of the

commission under this chapter shall be performed and carried out by a successor agency to be designated by the legislature before abolishment of the commission or, if the legislature does not designate the successor, by the secretary of state.

SECTION 37. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Sections 39.9111, 39.9112, and 39.9113 to read as follows:

Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES. The commission may adopt rules requiring renewable power facilities to have reactive power control capabilities or any other feasible technology designed to reduce the facilities' effects on system reliability.

Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION CAPACITY. The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall study the need for increased transmission and generation capacity throughout this state and report to the legislature the results of the study and any recommendations for legislation. The report must be filed with the legislature not later than December 31 of each even-numbered year.

Sec. 39.9113. RENEWABLE ENERGY CREDITS. To facilitate voluntary contractual obligations and verify claims regarding environmental attributes of renewable energy production in this state, the independent organization certified under Section 39.151 for the ERCOT power region shall maintain an accreditation and banking system to award and track voluntary renewable energy credits generated by eligible facilities.

SECTION 38. Section 39.916(a), Utilities Code, is amended by amending Subdivision (1) and adding Subdivision (4) to read as follows:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology[~~, as defined by Section 39.904,~~] that is installed on a retail electric customer's side of the meter.

(4) "Renewable energy technology" means any technology that relies exclusively on an energy source that is naturally regenerated over a short time and is derived from the sun directly or indirectly or from moving water or other natural movements or mechanisms of the environment. The term includes a technology that relies on energy derived from the sun directly, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. The term does not include a technology that relies on an energy resource derived from a fossil fuel, a waste product from a fossil fuel, or a waste product from an inorganic source.

SECTION 39. The heading to Section 39.918, Utilities Code, is amended to read as follows:

Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER SIGNIFICANT [~~WIDESPREAD~~] POWER OUTAGE.

SECTION 40. Section 39.918, Utilities Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) In this section, "significant [~~"widespread~~] power

outage" means an event that [~~results in~~]:

(1) results in a loss of electric power that:

(A) affects a significant number of distribution customers of a transmission and distribution utility[~~,~~] and

[~~(B)~~] has lasted or is expected to last for at least six [~~eight~~] hours;

(B) affects distribution customers of a transmission and distribution utility in an area for which the governor has issued a disaster or emergency declaration;

(C) affects distribution customers served by a radial transmission or distribution facility, creates a risk to public health or safety, and has lasted or is expected to last for at least 12 hours; or

(D) creates [~~and~~

[~~(2)~~] a risk to public health or safety because it affects a critical infrastructure facility that serves the public such as a hospital, health care facility, law enforcement facility, fire station, or water or wastewater facility; or

(2) causes the independent system operator to order a transmission and distribution utility to shed load.

(a-1) The Texas Division of Emergency Management, the independent organization certified under Section 39.151 for the ERCOT power region, or the executive director of the commission may determine that a power outage other than an outage described by Subsection (a) is a significant power outage for the purposes of this section.

(b) Notwithstanding any other provision of this subtitle, a

transmission and distribution utility may:

(1) lease and operate facilities that provide temporary emergency electric energy to aid in restoring power to the utility's distribution customers during a significant [~~widespread~~] power outage in which:

(A) the independent system operator has ordered the utility to shed load; or

(B) the utility's distribution facilities are not being fully served by the bulk power system under normal operations; and

(2) procure, own, and operate, or enter into a cooperative agreement with other transmission and distribution utilities to procure, own, and operate jointly, transmission and distribution facilities that have a lead time of at least six months and would aid in restoring power to the utility's distribution customers following a significant [~~widespread~~] power outage. In this section, long lead time facilities may not be electric energy storage equipment or facilities under Chapter 35, Utilities Code.

SECTION 41. Section 40.001(a), Utilities Code, is amended to read as follows:

(a) Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter governs the transition to and the establishment of a fully competitive electric power industry for municipally owned utilities. With respect to the regulation of municipally owned utilities, this chapter controls over any other provision of this title, except for sections in which the term "municipally owned

utility" is specifically used.

SECTION 42. Section 40.004, Utilities Code, is amended to read as follows:

Sec. 40.004. JURISDICTION OF COMMISSION. Except as specifically otherwise provided in this chapter, the commission has jurisdiction over municipally owned utilities only for the following purposes:

(1) to regulate wholesale transmission rates and service, including terms of access, to the extent provided by Subchapter A, Chapter 35;

(2) to regulate certification of retail service areas to the extent provided by Chapter 37;

(3) to regulate rates on appeal under Subchapters D and E, Chapter 33, subject to Section 40.051(c);

(4) to establish a code of conduct as provided by Section 39.157(e) applicable to anticompetitive activities and to affiliate activities limited to structurally unbundled affiliates of municipally owned utilities, subject to Section 40.054;

(5) to establish terms and conditions for open access to transmission and distribution facilities for municipally owned utilities providing customer choice, as provided by Section 39.203;

(6) to administer [~~the renewable energy credits program under Section 39.904(b) and~~] the natural gas energy credits program under Section 39.9044(b);

(7) to require reports of municipally owned utility operations only to the extent necessary to:

(A) enable the commission to determine the

aggregate load and energy requirements of the state and the resources available to serve that load; or

(B) enable the commission to determine information relating to market power as provided by Section 39.155; and

(8) to evaluate and monitor the cybersecurity preparedness of a municipally owned utility described by Section 39.1516(a)(3) or (4).

SECTION 43. Section 41.001, Utilities Code, is amended to read as follows:

Sec. 41.001. APPLICABLE LAW. Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter governs the transition to and the establishment of a fully competitive electric power industry for electric cooperatives. Regarding the regulation of electric cooperatives, this chapter shall control over any other provision of this title, except for sections in which the term "electric cooperative" is specifically used.

SECTION 44. Section 52.060, Utilities Code, is amended to read as follows:

Sec. 52.060. ADMINISTRATIVE FEE OR ASSESSMENT. The commission may prescribe and collect a fee or assessment from local exchange companies necessary to recover the cost to the commission and to the office of activities carried out and services provided under this subchapter and Section 12.203 [~~52.006~~].

SECTION 45. Section 13.4132, Water Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Section 5.505, the term of an emergency order issued under this section by the utility commission or the commission may not exceed 360 days. The emergency order may be renewed:

(1) once for a period not to exceed 360 days; or

(2) if the utility is undergoing a sale, transfer, merger, consolidation, or acquisition required to be reported to the utility commission under Section 13.301, for a reasonable time until the sale, transfer, merger, consolidation, or acquisition is complete.

SECTION 46. (a) The following provisions are repealed:

(1) Section 304.201, Business & Commerce Code;

(2) Section 31.003, Utilities Code;

(3) Section 39.155(b), Utilities Code;

(4) Section 39.904, Utilities Code;

(5) Section 39.916(g), Utilities Code;

(6) Section 39.918(k), Utilities Code; and

(7) Section 52.006, Utilities Code.

(b) Section 34, Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, is repealed.

SECTION 47. The Public Utility Commission of Texas is not required to conduct the first review of an allowance under Section 35.004(d-3), Utilities Code, as added by this Act, until the fifth year after the adoption of the rules required by Section 35.004(d-1), Utilities Code, as added by this Act.

SECTION 48. The Public Utility Commission of Texas shall adopt rules as necessary to implement the changes in law made by

this Act to Section 35.004, Utilities Code, not later than the 180th day after the effective date of this Act.

SECTION 49. The changes in law made by this Act to Section 35.004, Utilities Code, apply only to an electric generation facility that executes a standard generator interconnection agreement with a transmission-owning utility after December 31, 2025.

SECTION 50. (a) The presiding officer of the Public Utility Commission of Texas shall designate a commissioner to serve a term on the governing body of the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region that begins January 1, 2024, to comply with Section 39.151(g-1), Utilities Code, as amended by this Act.

(b) Except as provided by Subsection (c) of this section, Section 12.059, Utilities Code, as amended by this Act, applies to a member of the Public Utility Commission of Texas appointed before, on, or after the effective date of this Act.

(c) A member of the Public Utility Commission of Texas who, before the effective date of this Act, completed the training program required by Section 12.059, Utilities Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 12.059, Utilities Code. A commission member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission held on or after December 1, 2023, until the member completes the additional training.

SECTION 51. The Public Utility Commission of Texas shall require the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region to implement the program required by Section 39.159(d), Utilities Code, as added by this Act, not later than December 1, 2024.

SECTION 52. (a) The Public Utility Commission of Texas shall prepare the portions of the report required by Section 39.1591(2), Utilities Code, as added by this Act, only for reports due on or after December 1, 2024.

(b) The Public Utility Commission of Texas shall implement Section 39.1592, Utilities Code, as added by this Act, not later than December 1, 2027.

(c) Notwithstanding Subsection (b) of this section and the deadline provided by Section 39.1592(b), Utilities Code, as added by this Act, an owner or operator of an electric generation facility to which Section 39.1592(b), Utilities Code, as added by this Act, applies shall make the first demonstration required by that subsection not later than January 1, 2028.

(d) The Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region shall:

(1) conduct a study on whether implementing an alternative to the single market clearing price for energy, ancillary services, and other products would reduce costs to residential and small commercial customers or their load-serving entities, such as paying generators the price bid and not the additional amounts up to the highest cost generator needed to clear

the market;

(2) analyze:

(A) whether cost savings can be achieved for consumers, or load-serving entities serving residential and small commercial consumers, by:

(i) limiting generators that have received state or federal subsidies to receiving the price bid by that type of generator; or

(ii) limiting a generator to receiving the price bid by that generator; and

(B) if a pay as bid mechanism is used or a single market clearing price mechanism is retained, whether non-dispatchable and dispatchable generation facilities should bid into separate markets for ERCOT power region products such that the generation facilities are directly competing against technologies with similar attributes; and

(3) report the results of the study and analysis conducted under this subsection to the legislature not later than December 1, 2025.

SECTION 53. (a) Except as provided by Subsection (b) of this section, notwithstanding the repeal by this Act of Section 39.904, Utilities Code, the Public Utility Commission of Texas by rule shall adopt a program to apply that section as it existed immediately before the effective date of this Act, and to apply other statutes that referred to that section immediately before the effective date of this Act, as if that section had not been repealed by this Act and the other statutes that referred to that section had

not been repealed or amended by this Act.

(b) Under Subsection (a) of this section, the statutes described in that subsection must be applied as if Section 39.904 were applicable only to renewable energy technologies that exclusively rely on an energy source that is naturally regenerated over a short time and derived directly from the sun.

(c) This section expires September 1, 2025, and the Public Utility Commission of Texas shall phase out the program required by Subsection (a) of this section so that it terminates on that date.

SECTION 54. The changes in law made by this Act to Section 15.023, Utilities Code, apply only to a violation committed on or after the effective date of this Act. A violation committed before the effective date of this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

SECTION 55. It is the intent of the 88th Legislature, Regular Session, 2023, that the amendments made by this Act be harmonized with another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 56. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 1500 was passed by the House on April 19, 2023, by the following vote: Yeas 140, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1500 on May 25, 2023, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1500 on May 28, 2023, by the following vote: Yeas 140, Nays 1, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1500

I certify that H.B. No. 1500 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1500 on May 28, 2023, by the following vote: Yeas 31, Nays 0.

_____

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

H.B. No. 3810

AN ACT

relating to certain notices provided to the Texas Commission on Environmental Quality by public water supply systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 341.033, Health and Safety Code, is amended by amending Subsection (i) and adding Subsection (i-1) to read as follows:

(i) An owner, agent, manager, operator, or other person in charge of a public water supply system that furnishes water for public or private use or a wastewater system that provides wastewater services for public or private use shall maintain internal procedures to notify the commission immediately of the following events, if the event may negatively impact the production or delivery of safe and adequate drinking water:

(1) an unusual or unexplained unauthorized entry at property of the public water supply or wastewater system;

(2) an act of terrorism against the public water supply or wastewater system;

(3) an unauthorized attempt to probe for or gain access to proprietary information that supports the key activities of the public water supply or wastewater system;

(4) a theft of property that supports the key activities of the public water supply or wastewater system; [~~or~~]

(5) a natural disaster, accident, or act that results

in damage to the public water supply or wastewater system; or

(6) for a nonindustrial public water supply system, an unplanned condition that has caused a public water supply outage or the public water supply system to issue a do-not-use advisory, do-not-consume advisory, or boil water notice.

(i-1) The commission may collaborate with the Texas Division of Emergency Management in administering the notification requirement in Subsection (i)(6), including determining the method by which the notifications are provided. Subsection (i)(6) does not require an owner, agent, manager, operator, or other person in charge of a nonindustrial public water supply system to provide notice of a weather or emergency alert, warning, or watch issued by the National Weather Service, the National Oceanic and Atmospheric Administration, or the Texas Division of Emergency Management or a successor federal or state agency.

SECTION 2. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3810 was passed by the House on May 11, 2023, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3810 on May 25, 2023, by the following vote: Yeas 141, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3810 was passed by the Senate, with amendments, on May 23, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

H.B. No. 4559

AN ACT

relating to the application of statutes that classify political subdivisions according to population.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 147.003(a), Agriculture Code, is amended to read as follows:

(a) A person pursuing the business of selling mules, horses, jacks, or jennets in a county with a population of not less than 2.1 [~~1.8~~] million nor more than 2.2 [~~1.9~~] million is not subject to this chapter as a livestock auction commission merchant.

SECTION 2. Section 148.001, Agriculture Code, is amended to read as follows:

Sec. 148.001. DEFINITION. In this chapter, "slaughterer" means a person engaged in the business of:

(1) slaughtering livestock for profit; or

(2) selling livestock, as a primary business, to be slaughtered by the purchaser on premises owned or operated by the seller, in a county:

(A) with a population of 1.2 [~~one~~] million or more;

(B) in which [~~that contains~~] two or more municipalities with a population of 280,000 [~~250,000~~] or more are wholly or primarily located;

(C) that is adjacent to a county described by

Paragraph (B); or

(D) that is adjacent to a county described by Paragraph (C) and:

(i) has a population of not more than 55,000 [~~50,000~~] and contains a municipality with a population of at least 20,000; or

(ii) in which [~~contains, wholly or partly,~~] two or more municipalities with a population of 280,000 [~~250,000~~] or more are partly located.

SECTION 3. Section 109.57(e), Alcoholic Beverage Code, is amended to read as follows:

(e) A municipality located in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 850,000 [~~600,000~~] or a municipality located in a county with a population of 850,000 [~~600,000~~] or more and that is adjacent to a county with a population of 2.2 million or more may regulate, in a manner not otherwise prohibited by law, the location of an establishment issued a permit under Chapter 32 if:

(1) the establishment derives 35 percent or more of the establishment's gross revenue from the on-premises sale or service of alcoholic beverages and the premises of the establishment are located in a dry area; and

(2) the permit is not issued to a fraternal or veterans organization or the holder of a food and beverage certificate.

SECTION 4. Section 251.726(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies only to a municipality that has

within its boundaries all or part of an international airport operated jointly by two municipalities and:

(1) that is:

(A) partially located in three counties, two of which have a population of 2.1 [~~1.8~~] million or more; and

(B) primarily located in a county with a population of 2.1 [~~1.8~~] million or more; or

(2) that:

(A) is partially located in five counties, one of which:

(i) has a population of 2.1 [~~1.8~~] million or more; and

(ii) is adjacent to a county with a population of 2.2 million or more;

(B) is subject to a limited purpose annexation and development agreement under Subchapter G, Chapter 212, Local Government Code; and

(C) may annex an area on request of the owners of land in the area under Subchapter C-3, Chapter 43, Local Government Code.

SECTION 5. Section 251.727(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies only to:

(1) a municipality that contains U.S. Highway 287 and State Highway 294 and is located in a county with a population of not less than 57,000 and not more than 59,000 on September 1, 2021; or

(2) a municipality that:

(A) has a municipal boundary located not more than 1.5 miles from an automobile racetrack with a seating capacity of more than 100,000;

(B) has a population of more than 5,000 [~~1,000~~] and less than 5,500 [~~3,000~~]; and

(C) is located entirely within a county with a population of more than 650,000 that is adjacent to two counties, each of which has a population of more than 1.8 million.

SECTION 6. Section 251.742(b), Alcoholic Beverage Code, is amended to read as follows:

(b) This section applies only to a municipality that:

(1) has a population of 15,000 or more; and

(2) is located in two counties one of which:

(A) has a population of 340,000 or more;

(B) contains a municipality in which at least 85 percent of the county's population resides; and

(C) [~~(B)~~] borders the Gulf of Mexico.

SECTION 7. Article 2.21(g), Code of Criminal Procedure, is amended to read as follows:

(g) A clerk in a county with a population of less than 2.5 [~~two~~] million must provide written notice by mail to the attorney representing the state in the case and the attorney representing the defendant before disposing of an eligible exhibit.

SECTION 8. Article 45.014(d), Code of Criminal Procedure, is amended to read as follows:

(d) In a county with a population of more than 2.5 [~~two~~]

million that does not have a county attorney, a justice or judge may not issue a warrant under this section for an offense under Section 32.41, Penal Code, unless the district attorney has approved the complaint or affidavit on which the warrant is based.

SECTION 9. Article 45.019(g), Code of Criminal Procedure, is amended to read as follows:

(g) In a county with a population of more than 2.5 [~~two~~] million that does not have a county attorney, a complaint for an offense under Section 32.41, Penal Code, must be approved by the district attorney, regardless of whether a collection proceeding is initiated by the district attorney under Section 32.41(e), Penal Code.

SECTION 10. Article 46B.084(a)(2), Code of Criminal Procedure, is amended to read as follows:

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 [~~one~~] million or in a county with a population of four million or more, as soon as practicable following the date of the defendant's return to the court, the court shall provide the notice required by that subdivision to the attorney representing the state and the attorney for the defendant, and the attorney for the defendant shall meet and confer with the defendant as soon as practicable after the date of receipt of that notice.

SECTION 11. Article 46B.084(a-1)(2), Code of Criminal Procedure, is amended to read as follows:

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 [~~one~~] million or in a county with a

population of four million or more, the court shall make the determination described by that subdivision not later than the 20th day after the date on which the court received notification under Article 46B.079, regardless of whether a party objects to the report as described by that subdivision and the issue is set for a hearing under Subsection (b).

SECTION 12. Article 46B.084(d)(2), Code of Criminal Procedure, is amended to read as follows:

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 [~~one~~] million or in a county with a population of four million or more, on the court's own motion criminal proceedings in the case against the defendant shall be resumed as soon as practicable after the date of the court's determination under this article that the defendant's competency has been restored.

SECTION 13. Section 1, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. OFFICE AUTHORIZED. Subject to the provisions of this article, the commissioners court of any county having a population of more than 2.5 [~~two~~] million shall establish and maintain the office of medical examiner, and the commissioners court of any county may establish and provide for the maintenance of the office of medical examiner. Population shall be according to the last preceding federal census.

SECTION 14. Articles 102.014(a), (b), (f), and (g), Code of Criminal Procedure, are amended to read as follows:

(a) The governing body of a municipality with a population

greater than 1.3 million [~~850,000~~] according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Section 542.202, Transportation Code, or Chapter 682, Transportation Code, shall by order assess on each parking violation a fine of not less than $2 and not to exceed $5.

(b) The governing body of a municipality with a population less than 1.3 million [~~850,000~~] according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Section 542.202, Transportation Code, or Chapter 682, Transportation Code, may by order assess on each parking violation a fine not to exceed $5.

(f) In a municipality with a population greater than 1.3 million [~~850,000~~] according to the most recent federal decennial census, the officer collecting a fine in a municipal court case shall deposit money collected under this article in the municipal child safety trust fund established as required by Chapter 106, Local Government Code.

(g) In a municipality with a population less than 1.3 million [~~850,000~~] according to the most recent federal decennial census, the money collected under this article in a municipal court case must be used for a school crossing guard program if the municipality operates one. If the municipality does not operate a school crossing guard program or if the money received from fines from municipal court cases exceeds the amount necessary to fund the school crossing guard program, the municipality may:

(1) deposit the additional money in an interest-bearing account;

(2) expend the additional money for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention; or

(3) expend the additional money for programs designed to enhance public safety and security.

SECTION 15. Section 11.0581(a), Education Code, is amended to read as follows:

(a) An election for trustees of an independent school district shall be held on the same date as:

(1) the election for the members of the governing body of a municipality located in the school district;

(2) the general election for state and county officers;

(3) the election for the members of the governing body of a hospital district, if the school district:

(A) is wholly or partly located in a county with a population of less than 50,000 [~~40,000~~] that is adjacent to a county with a population of more than three million; and

(B) held its election for trustees jointly with the election for the members of the governing body of the hospital district before May 2007; or

(4) the election for the members of the governing board of a public junior college district in which the school district is wholly or partly located.

SECTION 16. Section 11.065(a), Education Code, is amended to read as follows:

(a) Sections 11.052(g) and (h) and Sections 11.059(a) and (b) do not apply to the board of trustees of a school district if:

(1) the district's central administrative office is located in a county with a population of more than 2.5 [~~two~~] million; and

(2) the district's student enrollment is more than 125,000 and less than 200,000.

SECTION 17. Section 11.151(f), Education Code, is amended to read as follows:

(f) For purposes of this section, a county board of education, as defined by a board of county school trustees, and office of county school superintendent in a county with a population of 2.5 [~~2.2~~] million or more and that is adjacent to a county with a population of more than one million [~~800,000~~] are included within the definition of a school district and subject to the oversight of the agency.

SECTION 18. Section 25.093(b), Education Code, is amended to read as follows:

(b) The attendance officer or other appropriate school official shall file a complaint against the parent in:

(1) the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of 2.1 [~~1.75~~] million or more;

(2) a justice court of any precinct in the county in which the parent resides or in which the school is located; or

(3) a municipal court of the municipality in which the parent resides or in which the school is located.

SECTION 19. Sections 37.011(a-2) and (a-3), Education Code, are amended to read as follows:

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of 195,000 [~~180,000~~] or less;

(2) is adjacent to two counties, each of which has a population of more than 1.7 million; and

(3) has seven or more school districts located wholly within the county's boundaries.

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of more than 200,000 and less than 233,500 [~~220,000~~];

(2) has five or more school districts located wholly within the county's boundaries; and

(3) has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

SECTION 20. Section 38.007(b), Education Code, is amended to read as follows:

(b) The board of trustees of a school district shall attempt to provide a safe alcohol-free environment to students coming to or going from school. The board of trustees may cooperate with local

law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage Code. Additionally, the board, if a majority of the area of a district is located in a municipality with a population of 1.3 million [~~900,000~~] or more, may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

SECTION 21. Section 45.105(e), Education Code, is amended to read as follows:

(e) The governing body of an independent school district that governs a junior college district under Subchapter B, Chapter 130, in a county with a population of more than 2.5 [~~two~~] million may dedicate a specific percentage of the local tax levy to the use of the junior college district for facilities and equipment or for the maintenance and operating expenses of the junior college district. To be effective, the dedication must be made by the governing body on or before the date on which the governing body adopts its tax rate for a year. The amount of local tax funds derived from the percentage of the local tax levy dedicated to a junior college district from a tax levy may not exceed the amount that would be levied by five percent of the no-new-revenue tax rate for the tax year calculated as provided by Section 26.04, Tax Code, on all property taxable by the school district. All real property purchased with these funds is the property of the school district,

but is subject to the exclusive control of the governing body of the junior college district for as long as the junior college district uses the property for educational purposes.

SECTION 22. Section 51.214(a), Education Code, is amended to read as follows:

(a) In any municipality with a population of 1.18 million or more located primarily in a county with a population of 2.5 [~~2~~] million or more, the governing board of a private, nonprofit medical corporation, or of the parent corporation of such medical corporation, that provides police or security services for an institution of higher education or a private postsecondary educational institution located within one of the medical corporation's or parent corporation's medical complexes, or that provides police or security services for another medical complex legally affiliated with or owned, leased, managed, or controlled by the medical corporation or parent corporation, may employ and commission police or security personnel to enforce the law of this state within the jurisdiction designated by Subsection (c).

SECTION 23. Section 53A.49(a), Education Code, is amended to read as follows:

(a) In the same manner that a corporation may issue bonds under this chapter for an institution of higher education, a corporation created under Section 53A.35(b) may issue bonds to finance or refinance educational facilities to be used by a school that:

(1) is located in a county with a population of more than 2.5 [~~two~~] million;

(2) is located within three miles of an area designated as an enterprise zone under Chapter 2303, Government Code;

(3) provides primary and secondary education to at least 1,000 students;

(4) is accredited by an organization approved by the Texas Education Agency for private school accreditation; and

(5) is owned and operated by a corporation created under the Texas Nonprofit Corporation Law, as described by Section 1.008(d), Business Organizations Code [~~Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~].

SECTION 24. Section 61.0764(b), Education Code, is amended to read as follows:

(b) The board shall select one licensed hospital located in a county that borders the United Mexican States and that has a population of [~~at least 700,000 and not~~] more than 870,000 [~~800,000~~] to participate in the pilot program. The hospital must be accredited by The Joint Commission and:

(1) have been issued:

(A) a certificate of approval to offer a program of instruction by the Texas Workforce Commission under Subchapter C, Chapter 132; or

(B) a certificate of authority to award a degree for a program of study by the board under Subchapter G of this chapter;

(2) be accredited to offer a degree program by the

appropriate recognized regional accrediting agency; or

(3) must:

(A) have entered into a partnership with an institution of higher education to offer dual credit courses under the pilot program; and

(B) be seeking authorization to offer a program of instruction or study as described by Subdivision (1) or accreditation to offer a degree program as described by Subdivision (2).

SECTION 25. Section 130.082(i), Education Code, is amended to read as follows:

(i) The election of trustees of a countywide junior or community college district that contains a city with a population of more than 1.18 million located primarily in a county with a population of 2.5 [~~2~~] million or more shall be held on the first Saturday in April of each even-numbered year. When a runoff election is necessary, the board may order the election for a date to coincide with the date of the runoff election for city officials, if the city is holding a runoff election; otherwise, the board shall set the date of the runoff election for not later than three weeks following the regular election.

SECTION 26. Section 31.039(g), Election Code, is amended to read as follows:

(g) Section 31.035(b) does not apply to a person employed on a full-time basis by the administrator's office in a county with a population of 1.2 [~~one~~] million or less that has an election administrator.

SECTION 27. Section 31.160(e), Election Code, is amended to read as follows:

(e) The joint elections administrator for a county with a population of 1.2 [~~one~~] million or more that has an elections administrator is subject to Section 31.035 in the same manner as a county elections administrator. A person employed on a full-time basis by the joint elections administrator's office for that county is subject to Section 31.035 in the same manner as the joint elections administrator.

SECTION 28. Section 85.066(b), Election Code, is amended to read as follows:

(b) For a countywide election in a county with a population of more than 3.3 [~~2.5~~] million and a primary election in a county with a population of more than 1 million in which temporary branch polling places are established under Section 85.062(d)(1), the commissioners court may limit voting at a temporary branch polling place to the voters of particular state representative districts. To the extent practicable, the state representative districts shall be grouped so that the temporary branch polling places in each group serve substantially equal numbers of voters. A maximum of four groups of state representative districts may be established under this subsection.

SECTION 29. Section 143.005(e), Election Code, is amended to read as follows:

(e) If the city charter of a home-rule city with a population of more than 1.18 million located primarily in a county with a population of 2.5 [~~2~~] million or more that holds nonpartisan

elections for its offices requires both a petition and a $50 fee to be filed for a candidate's name to be placed on the ballot, those requirements supersede this section.

SECTION 30. Section 172.024(a), Election Code, is amended to read as follows:

(a) The filing fee for a candidate for nomination in the general primary election is as follows:

(1) United States senator $5,000

(2) office elected statewide, except United States senator 3,750

(3) United States representative 3,125

(4) state senator 1,250

(5) state representative 750

(6) member, State Board of Education 300

(7) chief justice or justice, court of appeals, other than a justice specified by Subdivision (8) 1,875

(8) chief justice or justice of a court of appeals that serves a court of appeals district in which a county with a population of more than 1.2 [~~one~~] million is wholly or partly situated 2,500

(9) district judge or judge specified by Section 52.092(d) for which this schedule does not otherwise prescribe a fee 1,500

(10) district or criminal district judge of a court in a judicial district wholly contained in a county with a population of more than 1.5 million 2,500

(11) judge, statutory county court, other than a judge

specified by Subdivision (12) 1,500

(12) judge of a statutory county court in a county with a population of more than 1.5 million 2,500

(13) district attorney, criminal district attorney, or county attorney performing the duties of a district attorney 1,250

(14) county commissioner, district clerk, county clerk, sheriff, county tax assessor-collector, county treasurer, or judge, constitutional county court:

(A) county with a population of 200,000 or more 1,250

(B) county with a population of under 200,000 750

(15) justice of the peace or constable:

(A) county with a population of 200,000 or more 1,000

(B) county with a population of under 200,000 375

(16) county surveyor 75

(17) office of the county government for which this schedule does not otherwise prescribe a fee 750

SECTION 31. Section 65.004(a), Family Code, is amended to read as follows:

(a) The following are designated as truancy courts:

(1) in a county with a population of 2.1 [~~1.75~~] million or more, the constitutional county court;

(2) justice courts; and

(3) municipal courts.

SECTION 32. Section 84.002(a), Family Code, is amended to read as follows:

(a) On the request of the prosecuting attorney in a county with a population of more than 2.5 [~~two~~] million or in a county in a judicial district that is composed of more than one county, the district court shall set the hearing on a date and time not later than 20 days after the date the application is filed or 20 days after the date a request is made to reschedule a hearing under Section 84.003.

SECTION 33. Section 105.009(m), Family Code, as added by Chapter 1171 (H.B. 3531), Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(m) A course under this section in a suit filed in a county with a population of more than 2.5 [~~two~~] million that is adjacent to a county with a population of more than one million must be available in both English and Spanish.

SECTION 34. Section 26.045(d), Government Code, is amended to read as follows:

(d) A county court in a county with a population of 2.1 [~~1.75~~] million or more has original jurisdiction over cases alleging a violation of Section 25.093, Education Code, or alleging truant conduct under Section 65.003(a), Family Code.

SECTION 35. Section 27.055(g), Government Code, is amended to read as follows:

(g) This subsection applies to a county with a population of at least 135,000 [~~120,000~~] but not more than 145,000 [~~130,000~~],

with territory less than 940 square miles that includes a state park, and with not more than two justice precincts provided that at least one of the precincts contains all or part of a municipality with a population of at least 195,000 [~~190,000~~] but not more than 205,000 [~~200,000~~]. The county judge of a county to which this subsection applies may appoint a qualified person to serve as a temporary justice of the peace for the precinct within which a municipality or part of a municipality is located to hold court and perform the duties of the justice when necessary to dispose of accumulated business in the precinct.

SECTION 36. Section 51.501(c), Government Code, is amended to read as follows:

(c) The commissioners court of a county that has a population of 5,415 [~~5,800~~] to 5,515 [~~5,900~~] shall determine whether the county shall have a joint clerk but may not take action to prevent a district clerk, county clerk, or joint clerk from serving the full term of office to which the clerk was elected.

SECTION 37. Section 54.1171, Government Code, is amended to read as follows:

Sec. 54.1171. APPLICATION OF SUBCHAPTER. This subchapter applies to a constitutional county court in a county with a population of 2.1 [~~1.75~~] million or more.

SECTION 38. Section 54.1951, Government Code, is amended to read as follows:

Sec. 54.1951. APPLICATION OF SUBCHAPTER. This subchapter applies to a constitutional county court in a county that:

(1) has a population of more than 820,000 [~~585,000~~];

and

(2) is contiguous to a county with a population of at least four million.

SECTION 39. Section 62.011(b), Government Code, is amended to read as follows:

(b) A plan authorized by this section for the selection of names of prospective jurors must:

(1) be proposed in writing to the commissioners court by a majority of the district and criminal district judges of the county at a meeting of the judges called for that purpose;

(2) specify that the source of names of persons for jury service is the same as that provided by Section 62.001 and that the names of persons listed in a register of persons exempt from jury service may not be used in preparing the record of names from which a jury list is selected, as provided by Sections 62.108 and 62.109;

(3) provide a fair, impartial, and objective method of selecting names of persons for jury service with the aid of electronic or mechanical equipment;

(4) designate the district clerk, or in a county with a population of at least 1.7 million and in which more than 70 [~~75~~] percent of the population resides in a single municipality, a bailiff appointed as provided under Section 62.019, as the officer in charge of the selection process and define the officer's duties; and

(5) provide that the method of selection either will use the same record of names for the selection of persons for jury

service until that record is exhausted or will use the same record of names for a period of time specified by the plan.

SECTION 40. Section 62.0145, Government Code, is amended to read as follows:

Sec. 62.0145. REMOVAL OF CERTAIN PERSONS FROM POOL OF PROSPECTIVE JURORS. Except as provided by Section 62.0146, if a written summons for jury service sent by a sheriff, constable, or bailiff is undeliverable, the county or district clerk may remove from the jury wheel the jury wheel card for the person summoned or the district clerk, or in a county with a population of at least 1.7 million and in which more than 70 [~~75~~] percent of the population resides in a single municipality, a bailiff appointed as provided under Section 62.019, may remove the person's name from the record of names for selection of persons for jury service under Section 62.011.

SECTION 41. Section 62.021, Government Code, is amended to read as follows:

Sec. 62.021. DISMISSAL OF JUROR REMOVED FROM PANEL. In a county with a population of 2.5 [~~two~~] million or more, a prospective juror removed from a jury panel for cause, by peremptory challenge or for any other reason, must be dismissed from jury service. After dismissal, the person may not be placed on another jury panel until the person's [~~his~~] name is returned to the jury wheel and drawn again for jury service.

SECTION 42. Sections 403.302(c-1) and (e-1), Government Code, are amended to read as follows:

(c-1) This subsection applies only to a school district

whose central administrative office is located in a county with a population of 10,000 [~~9,000~~] or less and a total area of more than 6,000 square miles. If after conducting the study for a tax year the comptroller determines that the local value for a school district is not valid, the comptroller shall adjust the taxable value determined under Subsections (a) and (b) as follows:

(1) for each category of property sampled and tested by the comptroller in the school district, the comptroller shall use the weighted mean appraisal ratio determined by the study, unless the ratio is more than four percentage points lower than the weighted mean appraisal ratio determined by the comptroller for that category of property in the immediately preceding study, in which case the comptroller shall use the weighted mean appraisal ratio determined in the immediately preceding study minus four percentage points;

(2) the comptroller shall use the category weighted mean appraisal ratios as adjusted under Subdivision (1) to establish a value estimate for each category of property sampled and tested by the comptroller in the school district; and

(3) the value estimates established under Subdivision (2), together with the local tax roll value for any categories not sampled and tested by the comptroller, less total deductions determined by the comptroller, determine the taxable value for the school district.

(e-1) This subsection applies only to a reinvestment zone created by a municipality that has a population of 83,000 [~~70,000~~] or less and is located in a county in which all or part of a military

installation is located. Notwithstanding Subsection (e), if on or after January 1, 2017, the municipality adopts an ordinance designating a termination date for the zone that is later than the termination date designated in the ordinance creating the zone, the number of years for which the total dollar amount may be deducted under Subsection (d)(4) is limited to the duration of the zone as determined under Section 311.017, Tax Code.

SECTION 43. Section 476.0002, Government Code, is amended to read as follows:

Sec. 476.0002. ELIGIBILITY AS ENDORSING MUNICIPALITY. Only a municipality with a population of one million [~~850,000~~] or more is eligible as an endorsing municipality under this chapter.

SECTION 44. Section 477.0002, Government Code, is amended to read as follows:

Sec. 477.0002. ELIGIBILITY AS ENDORSING MUNICIPALITY. Only a municipality with a population of one million [~~850,000~~] or more is eligible as an endorsing municipality under this chapter.

SECTION 45. Section 533.00257(j), Government Code, is amended to read as follows:

(j) The [~~Notwithstanding Subsection (i), the~~] commission may not delay providing medical transportation program services through a managed transportation delivery model in:

(1) a county with a population of one million [~~750,000~~] or more:

(A) in which all or part of a municipality with a population of one million or more is located; and

(B) that is located adjacent to a county with a

population of 2.5 [~~two~~] million or more; or

(2) a county with a population of at least 60,000 [~~55,000~~] but not more than 70,000 [~~65,000~~] that is located adjacent to a county with a population of at least 500,000 but not more than 1.5 million.

SECTION 46. Section 791.037(b), Government Code, is amended to read as follows:

(b) This section applies only to a county with a population of more than 1.7 [~~1.5~~] million in which more than 70 [~~75~~] percent of the population resides in a single municipality.

SECTION 47. Section 803.0021, Government Code, is amended to read as follows:

Sec. 803.0021. APPLICATION OF CHAPTER. This chapter applies only to:

(1) a retirement system for general municipal employees in a municipality with a population of not less than 950,000 [~~750,000~~] nor more than 1,050,000 [~~850,000~~];

(2) the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Texas County and District Retirement System, and the Texas Municipal Retirement System; and

(3) a retirement system that makes an election under Section 803.101(f).

SECTION 48. Section 851.0011(a), Government Code, is amended to read as follows:

(a) This section applies only with respect to a

municipality:

(1) with a population of less than 200,000;

(2) that is located in a county with a population of not less than 2.5 [~~2~~] million and not more than 4 million;

(3) that has a regularly organized fire department for which a retirement system and fund have been established under Section 4, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes); and

(4) that before January 1, 2017, has one or more departments participating in the retirement system.

SECTION 49. The heading to Section 1331.051, Government Code, is amended to read as follows:

Sec. 1331.051. LIMITATION ON BONDED DEBT: MUNICIPALITY WITH POPULATION OF 950,000 [~~750,000~~] OR MORE.

SECTION 50. Section 1331.051(a), Government Code, is amended to read as follows:

(a) This section applies only to a municipality with a population of 950,000 [~~750,000~~] or more.

SECTION 51. Section 1371.001(4), Government Code, is amended to read as follows:

(4) "Issuer" means:

(A) a home-rule municipality that:

(i) adopted its charter under Section 5, Article XI, Texas Constitution;

(ii) has a population of 50,000 or more; and

(iii) has outstanding long-term indebtedness that is rated by a nationally recognized rating agency

for municipal securities in one of the four highest rating categories for a long-term obligation;

(B) a conservation and reclamation district created and organized as a river authority under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(C) a joint powers agency organized and operating under Chapter 163, Utilities Code;

(D) a metropolitan rapid transit authority, regional transportation authority, or coordinated county transportation authority created, organized, or operating under Chapter 451, 452, or 460, Transportation Code;

(E) a conservation and reclamation district organized or operating as a navigation district under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(F) a district organized or operating under Section 59, Article XVI, Texas Constitution, that has all or part of two or more municipalities within its boundaries;

(G) a state agency, including a state institution of higher education;

(H) a hospital authority created or operating under Chapter 262 or 264, Health and Safety Code, in a county that:

(i) has a population of more than 3.3 million; or

(ii) is included, in whole or in part, in a standard metropolitan statistical area of this state that includes a county with a population of more than 2.5 [~~2.2~~] million;

(I) a hospital district in a county that has a

population of more than 2.5 [~~two~~] million;

(J) a nonprofit corporation organized to exercise the powers of a higher education loan authority under Section 53B.47(e), Education Code;

(K) a county:

(i) that has a population of more than 3.3 million [~~or more~~]; or

(ii) that, on the date of issuance of obligations under this chapter, has authorized, outstanding, or any combination of authorized and outstanding, indebtedness of at least $100 million secured by and payable from the county's ad valorem taxes and the authorized long-term indebtedness of which is rated by a nationally recognized rating agency of securities issued by local governments in one of the four highest rating categories for a long-term obligation;

(L) an independent school district that has an average daily attendance of 50,000 or more as determined under Section 48.005, Education Code;

(M) a municipality or county operating under Chapter 334, Local Government Code;

(N) a district created under Chapter 335, Local Government Code;

(O) a junior college district that has a total headcount enrollment of 40,000 or more based on enrollment in the most recent regular semester; or

(P) an issuer, as defined by Section 1201.002, that has:

(i) a principal amount of at least $100 million in outstanding long-term indebtedness, in long-term indebtedness proposed to be issued, or in a combination of outstanding or proposed long-term indebtedness; and

(ii) some amount of long-term indebtedness outstanding or proposed to be issued that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

SECTION 52. Section 1372.002(g), Government Code, is amended to read as follows:

(g) Subsection (f) applies only to an applicant created by a municipal housing authority established by a municipality that is:

(1) adjacent to an international boundary of this state; and

(2) [~~that is~~] located in a county that contains a municipality with a population of more than 500,000 [~~800,000~~].

SECTION 53. Section 1431.001(2), Government Code, is amended to read as follows:

(2) "Eligible countywide district" means a flood control district or a hospital district the boundaries of which are substantially coterminous with the boundaries of a county with a population of three million or more or a hospital district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district

before September 1, 2003.

SECTION 54. The heading to Chapter 1476, Government Code, is amended to read as follows:

CHAPTER 1476. CERTIFICATES OF INDEBTEDNESS IN COUNTIES WITH POPULATION OF MORE THAN 2.5 [~~TWO~~] MILLION

SECTION 55. Section 1476.001(a), Government Code, is amended to read as follows:

(a) This chapter applies only to a county with a population of more than 2.5 [~~two~~] million.

SECTION 56. Section 1477.301, Government Code, is amended to read as follows:

Sec. 1477.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county:

(1) with a population of more than 3.3 million; or

(2) with a population of more than 90,000 that borders the United Mexican States other than a county that contains three or more municipalities that each have a population of more than 23,000 [~~17,500~~].

SECTION 57. Section 1502.070(a), Government Code, is amended to read as follows:

(a) Management and control of a utility system may be vested in:

(1) the municipality's governing body; or

(2) a board of trustees named in the proceedings adopted by the municipality and consisting of not more than:

(A) five members, one of whom must be the mayor of the municipality;

(B) seven members, one of whom must be the mayor of the municipality, if the municipality is located in a county that:

(i) contains a municipality with a population of at least 500,000 [~~800,000~~]; and

(ii) [~~that~~] is located on an international border; or

(C) seven members, one of whom must be the mayor of the municipality, if the municipality is located in a county:

(i) with a population of at least 375,000;

(ii) that is located on an international border; and

(iii) that borders the Gulf of Mexico.

SECTION 58. The heading to Subchapter E, Chapter 1503, Government Code, is amended to read as follows:

SUBCHAPTER E. ADDITIONAL POWERS OF MUNICIPALITIES WITH POPULATION OF 1.9 [~~1.2~~] MILLION OR MORE

SECTION 59. The heading to Subchapter F, Chapter 1504, Government Code, is amended to read as follows:

SUBCHAPTER F. REVENUE BONDS FOR CULTURAL FACILITIES IN HOME-RULE MUNICIPALITIES WITH POPULATION OF 1.9 [~~1.2~~] MILLION OR MORE

SECTION 60. Section 1506.101, Government Code, is amended to read as follows:

Sec. 1506.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that:

(1) is located on the Gulf of Mexico or on a channel, canal, bay, or inlet connected to the Gulf of Mexico; and

(2) has a population of:

(A) more than 53,000 [~~47,500~~] and less than 84,000 [~~73,000~~]; or

(B) more than 115,000 [~~117,000~~] and less than 160,000.

SECTION 61. The heading to Subchapter D, Chapter 1506, Government Code, is amended to read as follows:

SUBCHAPTER D. REVENUE BONDS FOR PARKING AND TRANSPORTATION FACILITIES IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1.1 MILLION [~~650,000~~]

SECTION 62. Section 1509.002(b), Government Code, is amended to read as follows:

(b) This section applies only to a municipality that:

(1) has a population of more than 17,000 but less than 18,000; and

(2) is located in two counties [~~with populations of 550,000 or more but less than 4.2 million~~].

SECTION 63. The heading to Subchapter C, Chapter 1509, Government Code, is amended to read as follows:

SUBCHAPTER C. BONDS FOR FARMERS' MARKETS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1.1 MILLION [~~650,000~~]

SECTION 64. Section 2051.0441(a), Government Code, is amended to read as follows:

(a) This section applies only to a notice published by a governmental entity or representative in a county:

(1) with a population of at least 30,000 and not more than 42,000 [~~39,000~~] that borders the Red River; or

(2) that does not have a newspaper described by Section 2051.044 published in the county.

SECTION 65. Section 2306.6710(b), Government Code, is amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the following, as applicable:

(i) the governing body of a municipality in which the proposed development site is to be located;

(ii) subject to Subparagraph (iii), the commissioners court of a county in which the proposed development site is to be located, if the proposed site is to be located in an area of a county that is not part of a municipality; or

(iii) the commissioners court of a county in which the proposed development site is to be located and the governing body of the applicable municipality, if the proposed site is to be located in the extraterritorial jurisdiction of a

municipality;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the rent levels of the units;

(F) the cost of the development by square foot;

(G) the services to be provided to tenants of the development;

(H) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(I) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site; and

(J) the level of community support for the application, evaluated on the basis of a written statement from the state representative who represents the district containing the proposed development site;

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its

failure to perform its obligations under the loan documents or limited partnership agreement;

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested; and

(4) for an application concerning a development that is or will be located in a county with a population of 1.2 [~~1~~] million or more but less than 4 million and that is or will be located not more than two miles from a veterans hospital, veterans affairs medical center, or veterans affairs health care center, encourages applicants to provide a preference for leasing units in the development to low income veterans.

SECTION 66. Section 34.020(b), Health and Safety Code, is amended to read as follows:

(b) The commission, in consultation with the task force, shall develop a program to deliver prenatal and postpartum care through telehealth services or telemedicine medical services to pregnant women with a low risk of experiencing pregnancy-related complications, as determined by a physician. The commission shall implement the program in:

(1) at least two counties with populations of more than 2.5 [~~two~~] million;

(2) at least one county with a population of more than 100,000 and less than 500,000; and

(3) at least one rural county with high rates of maternal mortality and morbidity as determined by the commission in consultation with the task force.

SECTION 67. Section 61.056(c), Health and Safety Code, is amended to read as follows:

(c) A hospital district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003, may affiliate with any public or private entity to provide regional administration and delivery of health care services. The regional affiliation, in accordance with the affiliation agreement, shall use money contributed by an affiliated governmental entity to provide health care services to an eligible resident of that governmental entity.

SECTION 68. Section 61.056(d), Health and Safety Code, as added by Chapter 217 (S.B. 1063), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(d) A hospital district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003, may provide or arrange to provide health care services for eligible residents through the purchase of health coverage or other health benefits, including benefits described by Chapter 75. For purposes of this subsection, the board of managers of the district has the powers and duties provided to the commissioners court of a county under Chapter 75.

SECTION 69. Section 141.0025(a), Health and Safety Code, is amended to read as follows:

(a) The department may grant a waiver from the requirements of this chapter to a program that:

(1) is sponsored by a religious organization as defined by Section 464.051;

(2) has been in operation for at least 30 consecutive years;

(3) operates one camp for not more than seven days in any year;

(4) has not more than 80 campers;

(5) is conducted by adult participants who are all volunteers;

(6) operates in a county with a population of at least 4,000 [~~4,400~~] but not more than 4,350 [~~4,750~~]; and

(7) ensures that background checks are conducted on and the training required under Section 141.0095 is completed by each adult participating in the program.

SECTION 70. Section 262.034(e), Health and Safety Code, is amended to read as follows:

(e) This section applies only to an authority that owns or operates a hospital licensed under Chapter 241 and that is located in:

(1) a county with a population of 225,000 or less;

(2) those portions of extended municipalities that the federal census bureau has determined to be rural;

(3) an area that is not delineated as an urbanized area by the federal census bureau; or

(4) a municipality with a population of less than 12,000 and a county with a population of 3.3 [~~2.5~~] million or more at the time the authority begins operating a facility or providing a

service described by Subsection (a).

SECTION 71. Section 263.025, Health and Safety Code, is amended to read as follows:

Sec. 263.025. HOSPITAL OPERATING FUNDS USED FOR IMPROVEMENTS IN CERTAIN COUNTIES [~~OF 24,500 TO 25,500~~]. The commissioners court of a county with a population of 24,000 or more but less than 24,500 or a population of 24,700 or more but less than 27,000 [~~to 25,500~~] may use excess money in the county hospital operating fund for making permanent improvements to the county hospital and for the payment of county bonds issued for the construction and improvement of a county hospital facility.

SECTION 72. Section 281.004(a-1), Health and Safety Code, is amended to read as follows:

(a-1) The ballot for an election under this chapter held in a county with a population of more than 1.2 million [~~800,000~~] that is not included in the boundaries of a hospital district before September 1, 2003, shall be printed to provide for voting for or against the proposition: "The creation of a hospital district and the levy of a tax not to exceed 25 cents on each $100 of the taxable value of property taxable by the district."

SECTION 73. Sections 281.021(b) and (d), Health and Safety Code, are amended to read as follows:

(b) The commissioners court of a county with a population of more than 2.1 [~~1.8~~] million but less than 2.5 [~~1.9~~] million in which a district is created under this chapter shall appoint a board composed of not less than five or more than 15 members.

(d) If a district is created under this chapter in a county

with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003, the district shall be governed by a nine-member board of hospital managers, appointed as follows:

(1) the commissioners court of the county shall appoint four members;

(2) the governing body of the municipality with the largest population in the county shall appoint four members; and

(3) the commissioners court and the governing body of the municipality described by Subdivision (2) shall jointly appoint one member.

SECTION 74. Section 281.0281(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003.

SECTION 75. Section 281.02815(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003.

SECTION 76. Section 281.0475(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district created in a county with a population of more than 1.2 million [~~800,000~~] that was

not included in the boundaries of a hospital district before September 1, 2003.

SECTION 77. Section 281.0511(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003.

SECTION 78. Section 281.056(b-1), Health and Safety Code, is amended to read as follows:

(b-1) The county attorney, district attorney, or criminal district attorney, as appropriate, with the duty to represent the county in civil matters shall, in all legal matters, represent a district located in:

(1) a county [~~with a population of 800,000 or more~~] that borders the United Mexican States and in which a municipality with a population of 500,000 or more is located;

(2) a county with a population of 3.4 million or more; or

(3) a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003.

SECTION 79. Section 281.122(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before

September 1, 2003.

SECTION 80. Section 281.124(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003.

SECTION 81. Section 285.002, Health and Safety Code, is amended to read as follows:

Sec. 285.002. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county having:

(1) a population of:

(A) at least 1.2 million [~~800,000~~]; or

(B) at least 830,000 and not more than 870,000; and

(2) a countywide hospital district that:

(A) has taxes imposed and collected by the commissioners court of the county; and

(B) has teaching hospital facilities affiliated with a state-owned or private medical school.

SECTION 82. The heading to Chapter 290, Health and Safety Code, is amended to read as follows:

CHAPTER 290. COUNTY HEALTH CARE FUNDING DISTRICTS IN CERTAIN COUNTIES WITH POPULATION OF 2.1 [~~1.8~~] MILLION OR LESS

SECTION 83. Section 290.002, Health and Safety Code, is amended to read as follows:

Sec. 290.002. CREATION OF DISTRICT. A district is created

in each county that has a population of 2.1 [~~1.8~~] million or less and in which a municipality with a population of 1.1 million or more is predominantly located.

SECTION 84. Section 291.002, Health and Safety Code, is amended to read as follows:

Sec. 291.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital;

(2) is located in the Texas-Louisiana border region, as that region is defined by Section 2056.002, Government Code; and

(3) has a population of more than 51,000 [~~50,000~~] but less than 65,000.

SECTION 85. Section 291A.002, Health and Safety Code, is amended to read as follows:

Sec. 291A.002. APPLICABILITY. This chapter applies only to:

(1) a county that:

(A) is not served by a hospital district or a public hospital;

(B) has a population of more than 75,000; and

(C) borders or includes a portion of the Sam Rayburn Reservoir; and

(2) a county that has a population of more than 200,000 and less than 233,500 [~~220,000~~].

SECTION 86. Section 292.002, Health and Safety Code, is amended to read as follows:

Sec. 292.002. APPLICABILITY. This chapter applies only to a county that is not served by a hospital district and:

(1) is located in the Texas-Louisiana border region, as that region is defined by Section 2056.002, Government Code, and has a population of more than 90,000 but less than 200,000; or

(2) has a population of less than 51,000 and is adjacent to a county with a population of more than 200,000 but less than 233,500 [~~220,000~~].

SECTION 87. Section 292C.002, Health and Safety Code, is amended to read as follows:

Sec. 292C.002. APPLICABILITY. This chapter applies only to a county that:

(1) contains a hospital district that is not countywide;

(2) has a population of more than 125,000 but less than 135,000; and

(3) borders Oklahoma.

SECTION 88. Section 293C.002, Health and Safety Code, is amended to read as follows:

Sec. 293C.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital;

(2) has a population of more than 140,000 [~~125,000~~] and less than 155,000 [~~140,000~~]; and

(3) is not adjacent to a county with a population of 1.2 [~~one~~] million or more.

SECTION 89. Section 294.002, Health and Safety Code, is amended to read as follows:

Sec. 294.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital;

(2) contains a private institution of higher education with a student enrollment of more than 12,000; and

(3) has a population of less than 265,000 [~~250,000~~].

SECTION 90. Section 295.002, Health and Safety Code, is amended to read as follows:

Sec. 295.002. APPLICABILITY. This chapter applies only to a municipality that:

(1) is not served by a hospital district or a public hospital;

(2) is located on the Gulf of Mexico or on a channel, canal, bay, or inlet connected to the Gulf of Mexico; and

(3) has a population of more than 115,000 [~~117,000~~] and less than 145,000.

SECTION 91. Section 296.002, Health and Safety Code, is amended to read as follows:

Sec. 296.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital; and

(2) has a population of less than 235,000 [~~200,000~~] and contains two municipalities both with populations of 83,000

[~~75,000~~] or more.

SECTION 92. Section 296A.002, Health and Safety Code, is amended to read as follows:

Sec. 296A.002. APPLICABILITY. This chapter applies only to a county that:

(1) is not served by a hospital district or a public hospital; and

(2) has a population of less than 600,000 and borders two counties both with populations of 1.1 [~~one~~] million or more.

SECTION 93. Section 298E.002, Health and Safety Code, is amended to read as follows:

Sec. 298E.002. APPLICABILITY. This chapter applies only to a hospital district created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003.

SECTION 94. Section 341.0358(g), Health and Safety Code, is amended to read as follows:

(g) This section also applies to:

(1) a municipality with a population of more than 42,500 [~~36,000~~] and less than 48,000 [~~41,000~~] located in two counties, one of which is a county with a population of more than 2.1 [~~1.8~~] million;

(2) a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction, with a population of more than 15,000 [~~7,000~~] and less than 45,700 [~~30,000~~] located in a county with a population of more than 235,000 [~~155,000~~] and less than 255,000 [~~180,000~~]; and

(3) a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction, with a population of more than 32,000 [~~11,000~~] and less than 35,000 [~~18,000~~] located in two counties [~~a county with a population of more than 125,000 and less than 230,000~~].

SECTION 95. Section 341.03585(b), Health and Safety Code, is amended to read as follows:

(b) This section applies only to:

(1) a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction, with a population of more than 15,000 [~~7,000~~] and less than 45,700 [~~30,000~~] located in a county with a population of more than 235,000 [~~155,000~~] and less than 255,000 [~~180,000~~]; and

(2) a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction, with a population of more than 32,000 [~~11,000~~] and less than 35,000 [~~18,000~~] located in two counties [~~a county with a population of more than 125,000 and less than 230,000~~].

SECTION 96. Section 343.011(c), Health and Safety Code, is amended to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within

300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;

(4) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;

(5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;

(6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched and locked gate; and

(B) a cover over the entire swimming pool that cannot be removed by a child;

(7) maintaining on any property in a neighborhood in a county with a population of more than 1.3 [~~1.1~~] million a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or

(B) a cover over the entire swimming pool that cannot be removed by a child;

(8) maintaining a flea market in a manner that constitutes a fire hazard;

(9) discarding refuse or creating a hazardous visual obstruction on:

(A) county-owned land; or

(B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(10) discarding refuse on the smaller of:

(A) the area that spans 20 feet on each side of a utility line; or

(B) the actual span of the utility easement;

(11) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;

(12) discarding refuse on property that is not authorized for that activity; or

(13) surface discharge from an on-site sewage disposal system as defined by Section 366.002.

SECTION 97. Section 364.011(a-2), Health and Safety Code, is amended to read as follows:

(a-2) Notwithstanding Subsection (a), a commissioners court may, through a competitive bidding process, contract for the provision of solid waste collection, handling, storage, and disposal in an area of the county located within the

extraterritorial jurisdiction of a municipality if:

(1) the municipality does not provide solid waste disposal services in that area; and

(2) the county has a population of more than 1.5 million and at least 70 [~~75~~] percent of the population resides in a single municipality.

SECTION 98. Section 364.0341(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a municipality wholly or partly located in a county with a population of more than 57,000 [~~54,000~~] and less than 57,900 [~~54,500~~].

SECTION 99. Section 382.218(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a county [~~with a population of 800,000 or more~~] that borders the United Mexican States and in which a municipality with a population of 500,000 or more is located.

SECTION 100. Sections 711.008(b) and (d), Health and Safety Code, are amended to read as follows:

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus;

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect;

(6) the establishment and operation, if authorized in

accordance with Subsection (h), of a perpetual care cemetery by an organized religious society or sect that:

(A) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;

(B) has been in existence for at least five years;

(C) has at least $500,000 in assets; and

(D) establishes and operates the cemetery on land that:

(i) is owned by the society or sect;

(ii) together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres; and

(iii) is in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles;

(7) the establishment and use of a private family cemetery by an organization that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that is:

(A) owned by the organization; and

(B) located in a county:

(i) with a population of more than 165,000 [~~125,000~~]; and

(ii) that is adjacent to a county that has a population of more than 1.5 million and in which more than 70 [~~75~~]

percent of the population lives in a single municipality; or

(8) the establishment and use of a private family cemetery located at the site of a presidential library and museum.

(d) Subsection (a) does not apply to a cemetery established and operating before September 1, 1995, in a county with a population of more than 315,000 [~~285,000~~] and less than 351,000 [~~300,000~~] that borders the Gulf of Mexico.

SECTION 101. Section 713.0271, Health and Safety Code, is amended to read as follows:

Sec. 713.0271. CEMETERY OWNED BY CERTAIN COUNTIES. A county with a population of more than 800,000 [~~550,000~~] that borders a county with a population of more than 3.3 million may own, operate, and maintain a cemetery.

SECTION 102. Section 766.052, Health and Safety Code, is amended to read as follows:

Sec. 766.052. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a residential high-rise building:

(1) that is located in a county with a population of more than 1.5 million in which more than 70 [~~75~~] percent of the population resides in a single municipality;

(2) in which at least 50 percent of the residents are elderly individuals, individuals with a disability, or individuals with a mobility impairment; and

(3) that is not designated as a historically or archaeologically significant site by the Texas Historical Commission or the governing body of the county or municipality in which the building is located.

SECTION 103. Section 771.0751(a), Health and Safety Code, as added by Chapter 258 (H.B. 1771), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) This section applies only to the use of fees and surcharges collected under this subchapter in a county subject to this subchapter with a population of at least 1.2 [~~one~~] million.

SECTION 104. The heading to Subchapter B, Chapter 772, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. EMERGENCY COMMUNICATION DISTRICTS: COUNTIES WITH POPULATION OVER 3.3 [~~TWO~~] MILLION

SECTION 105. The heading to Subchapter E, Chapter 772, Health and Safety Code, is amended to read as follows:

SUBCHAPTER E. EMERGENCY COMMUNICATION SERVICE: COUNTIES WITH POPULATION OVER 2.5 [~~TWO~~] MILLION

SECTION 106. Section 772.402, Health and Safety Code, is amended to read as follows:

Sec. 772.402. APPLICATION OF SUBCHAPTER. This subchapter applies only to a county having a population of more than 2.5 [~~two~~] million in which a communication district has not been created under Subchapter B.

SECTION 107. Section 775.014(h), Health and Safety Code, is amended to read as follows:

(h) The governing body of a municipality with a population of more than one million may negotiate with the commissioners court of a county with a population of less than 2.1 [~~1.8~~] million that is the county in which the majority of the territory inside the municipality's corporate boundaries is located conditions under

which the municipality will grant its consent to the inclusion of its extraterritorial jurisdiction in the district. The negotiated conditions may:

(1) limit the district's ability to incur debt;

(2) require the district to ensure that its equipment is compatible with the municipality's equipment; and

(3) require the district to enter into mutual aid agreements.

SECTION 108. Section 775.0315(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to a district located wholly in a county with a population of 2.1 [~~1.8~~] million or more in which two or more cities with a population of 350,000 or more are located.

SECTION 109. Section 775.045(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply to a district:

(1) that before February 1, 2013, has adopted a fire code, fire code amendments, or other requirements in conflict with Subsection (a); and

(2) whose territory is located:

(A) in or adjacent to a general law municipality with a population of less than 4,000 that is served by a water control and improvement district governed by Chapter 51, Water Code; and

(B) in a county that has a population of more than 1.2 [~~one~~] million and is adjacent to a county with a population of more than 600,000 [~~420,000~~].

SECTION 110. Section 775.221(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter applies only to a district located wholly in:

(1) a county with a population of 20,000 or less; or

(2) a county with a population of more than 30,000 but less than 41,000 that is adjacent to a county with a population of more than 200,000 but less than 233,500 [~~220,000~~].

SECTION 111. Section 775.301, Health and Safety Code, is amended to read as follows:

Sec. 775.301. DEFINITION. In this subchapter, "commissioners court" means the commissioners court of a county that:

(1) borders the United Mexican States;

(2) contains a municipality with[~~, has~~] a population of more than 500,000; [~~800,000,~~] and

(3) appoints a board of emergency services commissioners under this chapter.

SECTION 112. Section 775.302(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter applies only to a district that is located wholly in a county:

(1) that borders the United Mexican States;

(2) [~~,~~] that contains a municipality with [~~has~~] a population of more than 500,000; [~~800,000,~~] and

(3) for which the commissioners court appoints a board of emergency services commissioners under Section 775.034.

SECTION 113. Section 822.0012(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to an incorporated municipality that has a population of more than 1,000 and that is the county seat of a county with a population of 1,380 or more but less than 1,600.

SECTION 114. Section 822.0411(a), Health and Safety Code, is amended to read as follows:

(a) This section applies only to an incorporated municipality that has a population of more than 1,000 and that is the county seat of a county with a population of 1,380 or more but less than 1,600.

SECTION 115. Section 42.041(g), Human Resources Code, is amended to read as follows:

(g) A child-care facility that is exempt under Subsection (b)(3) from the licensing requirement of Subsection (a) may provide care for each child at the child-care facility for not more than 15 hours a week if the child-care facility:

(1) provides the child care so that a person may attend an educational class provided by a nonprofit entity; and

(2) is located in a county:

(A) in which a municipality with a population of 500,000 [~~800,000~~] or more is located; and

(B) that is adjacent to an international border.

SECTION 116. Section 101A.202(a), Human Resources Code, is amended to read as follows:

(a) This section applies only to counties having a

population of not less than 20,600 [~~22,140~~] and not more than 20,800 [~~22,340~~] and to cities and towns within those counties.

SECTION 117. Section 1575.163, Insurance Code, is amended to read as follows:

Sec. 1575.163. LIMITATIONS. The Teacher Retirement System of Texas, as trustee, may not contract for or provide a health benefit plan that excludes from participation in the network a general hospital that:

(1) is located in the geographical service area or areas of the health coverage plan that includes a county that:

(A) has a population of at least 100,000 and not more than 233,500 [~~210,000~~]; and

(B) is located in the Texas-Louisiana border region, as that term is defined in Section 2056.002(e), Government Code; and

(2) agrees to provide medical and health care services under the plan subject to the same terms and conditions as other hospital providers under the plan.

SECTION 118. Section 1579.108, Insurance Code, is amended to read as follows:

Sec. 1579.108. LIMITATIONS. The trustee may not contract for or provide a health coverage plan that excludes from participation in the network a general hospital that:

(1) is located in the geographical service area or areas of the health coverage plan that includes a county that:

(A) has a population of at least 100,000 and not more than 233,500 [~~210,000~~]; and

(B) is located in the Texas-Louisiana border region, as that term is defined in Section 2056.002(e), Government Code; and

(2) agrees to provide medical and health care services under the plan subject to the same terms as other hospital providers under the plan.

SECTION 119. Section 21.101, Local Government Code, is amended to read as follows:

Sec. 21.101. REMOVAL BY RECALL ELECTION AUTHORIZED. A member of the governing body of a general-law municipality with a population of less than 3,000 [~~5,000~~] located in a county that borders the United Mexican States and contains a municipality with [~~has~~] a population of more than 500,000 [~~800,000~~] may be removed from office through a recall election initiated by petition as provided by this subchapter.

SECTION 120. Section 22.041(c), Local Government Code, is amended to read as follows:

(c) In addition to an absence described by Subsection (b), a member of a governing body is also considered absent for the purposes of that subsection if the member is not present at the adjournment of a meeting at which a quorum is established, unless the member is first allowed to withdraw by the unanimous vote of the members present. This subsection applies only to a municipality that is located in a county that borders the United Mexican States and contains a municipality with a population of 500,000 [~~800,000~~] or more [~~that is adjacent to an international border~~].

SECTION 121. Section 42.021(d), Local Government Code, is

amended to read as follows:

(d) Regardless of Subsection (a), the extraterritorial jurisdiction of a municipality is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located within three miles of those boundaries if the municipality:

(1) has a population of not less than 25,000 [~~20,000~~] or more than 27,000 [~~29,000~~]; and

(2) is located in a county that has a population of 45,000 or more and borders the Trinity River.

SECTION 122. Section 42.0251(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a general-law municipality:

(1) that has a population of less than 4,000 [~~3,000~~];

(2) that is located in a county with a population of more than 800,000 [~~500,000~~] that is adjacent to a county with a population of more than four million; and

(3) in which at least two-thirds of the residents reside within a gated community.

SECTION 123. Section 43.0751(n), Local Government Code, is amended to read as follows:

(n) This subsection applies only to a municipality any portion of which is located in a county that has a population of not less than 315,000 [~~285,000~~] and not more than 351,000 [~~300,000~~] and that borders the Gulf of Mexico and is adjacent to a county with a population of more than 3.3 million. A municipality may impose

within the boundaries of a district a municipal sales and use tax authorized by Chapter 321, Tax Code, or a municipal hotel occupancy tax authorized by Chapter 351, Tax Code, that is imposed in the municipality if:

(1) the municipality has annexed the district for limited purposes under this section; or

(2) following two public hearings on the matter, the municipality and the district enter a written agreement providing for the imposition of the tax or taxes.

SECTION 124. Section 43.1025(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a home-rule municipality that has a population of less than 13,000 [~~11,000~~] and is located primarily in a county with a population of more than 3.3 million.

SECTION 125. Section 81.029(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county judge in a county that is located on the international border and contains a municipality with [~~has~~] a population of 500,000 or more [~~than 800,000 and is located on the international border~~].

SECTION 126. Section 81.033(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a commissioners court of a county that has a population of more than 4,500 [~~5,000~~], is located within 100 miles of an international boundary, and contains no incorporated territory of a municipality.

SECTION 127. Section 89.001(a), Local Government Code, is

amended to read as follows:

(a) The commissioners court of a county with a population of more than two [~~1.25~~] million may employ an attorney as special counsel.

SECTION 128. Section 106.001, Local Government Code, is amended to read as follows:

Sec. 106.001. CREATION OF CHILD SAFETY TRUST FUND IN CERTAIN MUNICIPALITIES. A child safety trust fund shall be created in the treasury of a municipality with a population of more than 1.3 million [~~850,000~~].

SECTION 129. Section 115.044(a), Local Government Code, is amended to read as follows:

(a) A county with a population of 372,000 [~~312,000~~] to 410,000 [~~330,000~~] shall conduct a biennial independent audit of all books, records, and accounts of each district, county, and precinct officer, agent, or employee, including those of the regular county auditor, and of all governmental units of the county hospitals, farms, and other institutions. The audit must cover all matters relating to the fiscal affairs of the county. The audit shall be conducted in each even-numbered year and must be completed before December 31 of the year.

SECTION 130. Section 120.001, Local Government Code, is amended to read as follows:

Sec. 120.001. APPLICABILITY. This chapter applies only to a county with a population of more than 1.2 [~~one~~] million.

SECTION 131. Section 143.0052(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a municipality that:

(1) has a population of more than 220,000 and less than 275,000 [~~250,000~~];

(2) is located in a county in which another municipality that has a population of more than one million is predominately located; and

(3) whose emergency medical services are administered by a fire department.

SECTION 132. Section 143.025(l), Local Government Code, is amended to read as follows:

(l) In a municipality with a population of more than 1.4 [~~1.3~~] million and less than 2 million, an examination for a beginning position in the fire department may include testing instruments to be used in addition to the written examination in the establishment of the initial eligibility list.

SECTION 133. The heading to Section 143.114, Local Government Code, is amended to read as follows:

Sec. 143.114. ASSIGNMENT PAY IN MUNICIPALITY WITH POPULATION OF 1.5 [~~1.2~~] MILLION OR MORE.

SECTION 134. Sections 152.032(b), (d), and (e), Local Government Code, are amended to read as follows:

(b) This subsection applies only to a county that employs an arena venue project manager hired as of March 7, 2001, and that has a population of less than 2.1 [~~1.8~~] million in which a municipality with a population of more than one million is located. The amount of the compensation and allowances of a county auditor in a county subject to this subsection may not exceed the amount of the

compensation and allowances received from all sources by the county budget officer. If the county hires a county budget officer at a salary lower than the salary of the previous county budget officer, the county auditor's salary may not be reduced on that basis.

(d) The amount of the compensation and allowances of a county auditor in a county subject to this subsection may be set in an amount that exceeds the limit established by Subsection (a) if the compensation and allowances are approved by the commissioners court of the county. This subsection applies only to:

(1) [~~a county with a population of more than 108,000 and less than 110,000;~~

[~~(2)~~] a county with a population of 120,000 or more, excluding a county subject to Subsection (b);

(2) [~~(3)~~] a county with a population of more than 1,000 and less than 23,000 that borders the Gulf of Mexico;

(3) [~~(4)~~] a county with a population of more than 11,000 and less than 11,350 [~~11,650~~]; and

(4) [~~(5)~~] a county that:

(A) borders a county with a population of more than one million; and

(B) has a population of more than 44,500 [~~36,000~~] and less than 46,500 [~~40,000~~].

(e) This subsection applies only to a county with a population of more than 1.2 [~~one~~] million that uses an automated system to enhance internal controls of county finances through the use of automated edit checks of its automated purchasing system and its comprehensive automated payroll system. The amount of the

compensation and allowances of a county auditor in a county governed by this subsection may exceed the limit imposed by Subsection (a) if the compensation and allowances are approved by the commissioners court. If a county is governed by this subsection and Subsection (b), the amount of compensation and allowances received by the county auditor may not exceed the limit imposed by Subsection (b).

SECTION 135. Section 152.904(c), Local Government Code, is amended to read as follows:

(c) The commissioners court of a county with a population of 315,000 [~~285,000~~] to 351,000 [~~300,000~~] shall set the annual salary of the county judge at an amount equal to or greater than 90 percent of the salary, including supplements, of any district judge in Galveston County. However, the salary may not be set at an amount less than the salary paid the county judge on May 2, 1962.

SECTION 136. Section 158.008(e), Local Government Code, is amended to read as follows:

(e) A member of the commissioners court of a county with a population of 2.5 [~~two~~] million or more is not prohibited from being appointed to the civil service commission.

SECTION 137. Section 161.001, Local Government Code, is amended to read as follows:

Sec. 161.001. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a county that:

(A) contains a municipality that has a population of 500,000 [~~800,000~~] or more;

(B) is located on the international border; and

(C) before September 1, 2009, had a county ethics board appointed by the commissioners court;

(2) a county that:

(A) has a population of 425,000 or more;

(B) is adjacent to a county with a population of 3.3 million or more; and

(C) contains a portion of the San Jacinto River; and

(3) a county that has a population of less than 50,000 [~~40,000~~] that is adjacent to a county with a population of more than 3.3 million.

SECTION 138. Section 170.002(a), Local Government Code, is amended to read as follows:

(a) This section applies to a county that has a population of less than 50,000 [~~40,000~~] that is adjacent to a county with a population of more than 3.3 million.

SECTION 139. Section 180.003(a), Local Government Code, is amended to read as follows:

(a) In a county with a population of 372,000 [~~312,000~~] to 400,000 [~~330,000~~], a sheriff, deputy, constable, or other peace officer of the county or a municipality located in the county may not be required to be on duty more than 48 hours a week unless the peace officer is called on by a superior officer to serve during an emergency as determined by the superior officer.

SECTION 140. Section 212.0146(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a replat of a subdivision or a part of a subdivision located in a municipality or the extraterritorial jurisdiction of a municipality with a population of 1.4 [~~1.3~~] million or more.

SECTION 141. Section 212.151, Local Government Code, is amended to read as follows:

Sec. 212.151. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality:

(1) with a population of 1.5 million or more that passes an ordinance that requires uniform application and enforcement of this subchapter with regard to all property and residents;

(2) with a population of less than 4,500 [~~4,000~~] that:

(A) is located in two counties, one of which has a population greater than 45,000; and

(B) borders Lake Lyndon B. Johnson; or

(3) that does not have zoning ordinances and passes an ordinance that requires uniform application and enforcement of this subchapter with regard to all property and residents.

SECTION 142. Section 214.003(b-1), Local Government Code, is amended to read as follows:

(b-1) This subsection applies only to a municipality wholly or partly located in a county that is located along the international border and contains [~~has~~] a municipality with a population of 500,000 [~~800,000~~] or more. The court may appoint as a receiver under Subsection (b) an individual without a demonstrated record of rehabilitating properties if the

municipality demonstrates that:

(1) no individual with a demonstrated record of rehabilitating properties is available; and

(2) the individual being appointed is competent and able to fulfill the duties of a receiver.

SECTION 143. Section 214.161, Local Government Code, is amended to read as follows:

Sec. 214.161. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 1.18 million located primarily in a county with a population of 2.5 [~~2~~] million or more.

SECTION 144. Section 214.233(a), Local Government Code, is amended to read as follows:

(a) A municipality located in a county with a population of 2.5 [~~two~~] million or more may adopt an ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official.

SECTION 145. Section 229.003(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a municipality located wholly or partly in a county:

(1) with a population of one million [~~750,000~~] or more;

(2) in which all or part of a municipality with a population of one million or more is located; and

(3) that is located adjacent to a county with a population of 2.5 [~~two~~] million or more.

SECTION 146. Section 232.045(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county [~~with a population of more than 800,000~~] that is adjacent to an international border and contains a municipality with a population of 500,000 or more.

SECTION 147. Section 232.151, Local Government Code, is amended to read as follows:

Sec. 232.151. APPLICABILITY. This subchapter applies to a county that:

(1) contains a municipality with [~~has~~] a population of more than 500,000 [~~800,000~~];

(2) is adjacent to an international border; and

(3) contains more than 30,000 acres of lots that have remained substantially undeveloped for more than 25 years after the date the lots were platted.

SECTION 148. Section 234.032, Local Government Code, is amended to read as follows:

Sec. 234.032. APPLICABILITY. This subchapter applies only in the unincorporated area of a county [~~if the county~~]:

(1) in which [~~contains~~] two or more municipalities with a population of 350,000 [~~250,000~~] or more are wholly or primarily located;

(2) that is [~~a county~~] adjacent to a county described by Subdivision (1); or

(3) that is [~~a county~~] adjacent to a county described by Subdivision (2) and:

(A) has a population of not more than 55,000

[~~50,000~~] and contains a municipality with a population of at least 20,000; or

(B) in which [~~contains, wholly or partly,~~] two or more municipalities with a population of 280,000 [~~250,000~~] or more are partly located.

SECTION 149. Section 240.042(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county with a population of 2.1 [~~1.8~~] million or more by order may regulate the placement of private water wells in the unincorporated area of the county to prevent:

(1) the contamination of a well from an on-site sewage disposal system;

(2) rendering an on-site sewage disposal system that was in place before the well was drilled out of compliance with applicable law because of the placement of the well; and

(3) drilling of a domestic well into a contaminated groundwater plume or aquifer.

SECTION 150. Section 240.082(a), Local Government Code, is amended to read as follows:

(a) This subchapter applies only to real property that is located in the unincorporated area of a county with a population of 2.1 [~~1.8~~] million or more.

SECTION 151. Section 242.003(a), Local Government Code, is amended to read as follows:

(a) This section applies only to:

(1) a county that is [~~having a population of more than~~

~~800,000 and~~] located on the international border and contains a municipality with a population of 500,000 or more; and

(2) a municipality that has extraterritorial jurisdiction, as defined by Section 212.001, in the [~~that~~] county described by Subdivision (1).

SECTION 152. Section 250.011(c), Local Government Code, as added by Chapter 315 (H.B. 738), Acts of the 87th Legislature, Regular Session, 2021, is amended to read as follows:

(c) Subsection (a) does not apply to:

(1) a municipality that has enacted an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire protection sprinkler system in a new or existing one- or two-family dwelling on or before January 1, 2009; or

(2) an emergency services district:

(A) that before February 1, 2013, has adopted a fire code, fire code amendments, or other requirements in conflict with Subsection (a); and

(B) whose territory is located:

(i) in or adjacent to a general law municipality with a population of less than 4,000 that is served by a water control and improvement district governed by Chapter 51, Water Code; and

(ii) in a county that has a population of more than 1.2 [~~one~~] million and is adjacent to a county with a population of more than 600,000 [~~420,000~~].

SECTION 153. Section 253.001(l), Local Government Code, is

amended to read as follows:

(l) Subsection (b) does not apply to a conveyance of park land owned by a home-rule municipality that:

(1) is located in a county with a population of more than three million; and

(2) has a population of more than 33,000 [~~25,000~~] and less than 35,000 [~~33,000~~].

SECTION 154. Section 253.013(a), Local Government Code, is amended to read as follows:

(a) This section applies only to:

(1) a municipality with a population greater than 150,000 and less than 200,000 that is located in three counties; and

(2) a municipality with a population greater than 78,000 [~~65,000~~] and less than 88,000 [~~90,000~~] that is located in a county in which part but not all of a military installation is located.

SECTION 155. Section 263.007(e)(2), Local Government Code, is amended to read as follows:

(2) The commissioners court of a county with a population of 2.1 [~~one~~] million or more that contains two or more municipalities with a population of 350,000 [~~250,000~~] or more may lease real property owned or controlled by the county to a for-profit entity to conduct health and human service activities which the commissioners court finds to be in the public interest, without using the sealed-bid or sealed-proposal process described in Subsection (a) and without using any other competitive bidding process which would otherwise be required by law.

SECTION 156. Section 263.1545(a), Local Government Code, is amended to read as follows:

(a) This section applies only to surplus property that:

(1) is owned by a county with a population of more than 1.2 [~~1~~] million and less than 1.5 million;

(2) uses a high level of technology;

(3) was used or will be used in connection with or for a highly specialized program; and

(4) was purchased by the county for more than $250,000.

SECTION 157. Section 270.005(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county with a population of 251,000 to 260,000 [~~275,000~~] may contract with the United States government or a federal agency for:

(1) the joint construction or improvement of roads, bridges, or other county improvements; or

(2) the maintenance of a project constructed under this section.

SECTION 158. Section 272.001(h), Local Government Code, is amended to read as follows:

(h) A municipality, other than a municipality with a population of more than one million that is located primarily in a county with a population of 2.5 [~~two~~] million or more, owning land within 5,000 feet of where the shoreline of a lake would be if the lake were filled to its storage capacity may, without notice or the solicitation of bids, sell the land to the person leasing the land

for the fair market value of the land as determined by a certified appraiser. While land described by this subsection is under lease, the municipality owning the land may not sell the land to any person other than the person leasing the land. To protect the public health, safety, or welfare and to ensure an adequate municipal water supply, property sold by the municipality under this subsection is not eligible for and the owner is not entitled to the exemption provided by Section 11.142(a), Water Code. The instrument conveying property under this subsection must include a provision stating that the exemption does not apply to the conveyance. In this subsection, "lake" means an inland body of standing water, including a reservoir formed by impounding the water of a river or creek but not including an impoundment of salt water or brackish water, that has a storage capacity of more than 10,000 acre-feet.

SECTION 159. Section 292.023(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county with a population of:

(1) 32,800 [~~35,500~~] to 34,000 [~~36,000~~]; or

(2) 98,000 [~~85,000~~] to 105,000 [~~86,500~~].

SECTION 160. Section 292.025(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county with a population of 35,850 [~~35,050~~] to 36,000 [~~35,090~~].

SECTION 161. Section 292.027(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county with a population of 57,900 [~~57,000~~] to 59,000.

SECTION 162. Section 292.031(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county with a population of less than 50,000 [~~40,000~~] that is adjacent to a county with a population of more than 3.3 million.

SECTION 163. The heading to Chapter 307, Local Government Code, is amended to read as follows:

CHAPTER 307. USE OF TIDELANDS FOR PARK PURPOSES: GULF COAST MUNICIPALITIES WITH POPULATION OF 50,000 [~~60,000~~] OR MORE

SECTION 164. Section 320.0455(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county with a population of:

(1) 2.8 million or more;

(2) 800,000 [~~580,000~~] or more that is adjacent to a county with a population of 2.8 million or more; or

(3) more than 550,000 [~~410,000~~] and less than 620,000 [~~455,000~~].

SECTION 165. The heading to Chapter 322, Local Government Code, is amended to read as follows:

CHAPTER 322. JOINT PARKS BOARD AND PARK BONDS: ADJACENT COUNTIES WITH POPULATIONS OF 2.1 MILLION [~~350,000~~] OR MORE

SECTION 166. Section 322.001, Local Government Code, is amended to read as follows:

Sec. 322.001. ELIGIBLE COUNTIES. Two adjacent counties

that each have a population of 2.1 [~~one~~] million or more may create a joint park board in accordance with this chapter for the purpose of providing one or more public parks for the two counties.

SECTION 167. Section 327.051, Local Government Code, is amended to read as follows:

Sec. 327.051. COUNTIES AUTHORIZED TO CREATE ZOO BOARD. The commissioners court of a county with a population of more than 2.1 [~~1.5~~] million that is adjacent to a county with a population of more than 2.1 [~~one~~] million by order may authorize the creation of a zoo board under this chapter to establish, finance, and manage facilities and services to provide conservation, education, research, public recreation, and care relating to the study and display of animals and other specimens in a public zoological park.

SECTION 168. Section 334.0082(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a municipality that:

(1) has a population of at least 250,000 [~~176,000~~] that borders the Rio Grande, and that approved a sports and community venue project before January 1, 2009; or

(2) is located in a county adjacent to the Texas-Mexico border if:

(A) the county has a population of at least 500,000;

(B) the county does not have a city located within it that has a population of at least 500,000; and

(C) the municipality is the largest municipality in the county described by this subdivision.

SECTION 169. Section 334.103(c), Local Government Code, is amended to read as follows:

(c) A county with a population of more than 2.5 [~~two~~] million that is adjacent to a county with a population of more than 2.1 [~~one~~] million may impose the tax authorized by this subchapter at a rate not to exceed six percent on the gross rental receipts from the rental in the county of a motor vehicle.

SECTION 170. Section 334.1041(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county with a population of more than 2.5 [~~two~~] million that is adjacent to a county with a population of more than 2.1 [~~one~~] million.

SECTION 171. Section 334.202(b-1), Local Government Code, is amended to read as follows:

(b-1) A municipality with a population of more than 700,000 within a county with a population of more than 2.1 [~~one~~] million adjacent to a county with a population of more than 2.5 [~~two~~] million may impose the tax authorized by this subchapter at a rate not to exceed $5 for each motor vehicle.

SECTION 172. Section 334.2031(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a municipality with a population of more than 700,000 within a county with a population of more than 2.1 [~~one~~] million that is adjacent to a county with a population of more than 2.5 [~~two~~] million.

SECTION 173. Section 334.2518(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a municipality that has a population of more than 1.3 [~~1~~] million but less than 1.4 [~~1.3~~] million.

SECTION 174. Section 334.254(c), Local Government Code, is amended to read as follows:

(c) Except as provided by Subsection (d), a county with a population of more than 2.5 [~~two~~] million that is adjacent to a county with a population of more than 2.1 [~~one~~] million may impose the tax authorized by this subchapter at any rate not to exceed three percent of the price paid for a room in a hotel.

SECTION 175. Section 335.076(a), Local Government Code, is amended to read as follows:

(a) This section applies only in relation to an approved venue project constructed and operated under the authority of a district in a county with a population of more than 2.5 [~~two~~] million that is adjacent to a county with a population of more than 2.1 [~~one~~] million.

SECTION 176. Section 342.901(a), Local Government Code, is amended to read as follows:

(a) This section applies to a general law municipality that:

(1) has a population of less than 4,000;

(2) is located in a county that:

(A) has a population of more than 1.2 [~~one~~] million; and

(B) is adjacent to a county with a population of more than 600,000 [~~420,000~~]; and

(3) is served by a district governed by Chapter 51,

Water Code.

SECTION 177. The heading to Subchapter B, Chapter 343, Local Government Code, is amended to read as follows:

SUBCHAPTER B. PROVISIONS APPLICABLE TO MUNICIPALITIES WITH A POPULATION OF MORE THAN 1.3 MILLION [~~850,000~~]

SECTION 178. Section 343.011, Local Government Code, is amended to read as follows:

Sec. 343.011. APPLICATION. This subchapter applies only to a municipality with a population of more than 1.3 million [~~850,000~~].

SECTION 179. Section 344.051(a-1), Local Government Code, is amended to read as follows:

(a-1) The governing body of a municipality may propose the creation of a fire control, prevention, and emergency medical services district under this chapter if the municipality:

(1) has a population of 5,000 or more and less than 25,000; and

(2) is located in a county with a population of one million [~~750,000~~] or more:

(A) in which all or part of a municipality with a population of one million or more is located; and

(B) that is adjacent to a county with a population of 2.5 [~~two~~] million or more.

SECTION 180. Section 351.04155(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a county that:

(1) has a population of 2.1 [~~one~~] million or more;

(2) has two municipalities with a population of 250,000 [~~200,000~~] or more; and

(3) is adjacent to a county with a population of 2.1 [~~one~~] million or more.

SECTION 181. Section 351.901(b), Local Government Code, is amended to read as follows:

(b) The commissioners court of a county by contract may donate money to one or more crime stoppers or crime prevention organizations for expenditure by the organizations to meet the goals identified in Subsection (a). The total amount of all donations made in a calendar year may not exceed:

(1) $25,000; or

(2) $100,000, for a county with a population of 1.2 [~~one~~] million or more.

SECTION 182. Section 361.042(a), Local Government Code, is amended to read as follows:

(a) Instead of providing and maintaining its own jail, the commissioners court of a county with a population of 120,000 [~~110,000~~] to 123,000 [~~113,000~~] may provide safe and suitable jail facilities for the county by contracting for the facilities with the governing body of the municipality that is the county seat of the county.

SECTION 183. Section 362.005(a), Local Government Code, is amended to read as follows:

(a) The sheriff's department of a county with a population of at least 870,000 [~~700,000 but not more than 800,000~~] that borders the Texas-Mexico border and the police department of the

municipality having the largest population in that county shall jointly establish and operate the Texas Transnational Intelligence Center as a central repository of real-time intelligence relating to:

(1) autopsies in which the person's death is likely connected to transnational criminal activity;

(2) criminal activity in the counties along the Texas-Mexico border and certain other counties; and

(3) other transnational criminal activity in the state.

SECTION 184. Section 371.001(a), Local Government Code, is amended to read as follows:

(a) The governing body of a municipality with a population of 1.3 million [~~900,000~~] or less may appropriate from its general fund an amount not to exceed one percent of the general fund budget for that year for the purpose of advertising the municipality and promoting its growth and development.

SECTION 185. (a) Section 372.0035(a), Local Government Code, as amended by Chapters 59 (S.B. 385), 60 (S.B. 642), 244 (H.B. 1417), 994 (H.B. 1135), 995 (H.B. 1136), 997 (H.B. 1474), and 1271 (S.B. 386), Acts of the 86th Legislature, Regular Session, 2019, is reenacted as Sections 372.0035(a) and (a-1), Local Government Code, and amended to read as follows:

(a) This section applies only to:

(1) a municipality that:

(A) has a population of more than 900,000 [~~650,000~~] and less than two million;

(B) has a population of more than 325,000 and less than 625,000; [~~or~~]

(C) has a population of more than 197,000 [~~180,000~~] and less than 200,500 [~~200,000~~];

(D) [~~(C)~~] has a population of more than 256,000 [~~200,000~~] and less than 257,000 [~~225,000~~];

(E) [~~(C)~~] has a population of more than 20,000 and is wholly located in a county with a population of more than 62,000 [~~55,000~~] and less than 68,000 [~~65,000~~];

(F) [~~(C)~~] has a population of more than 200,000 [~~115,000~~] and borders Lake Lewisville;

(G) [~~(C)~~] has a population of more than 138,000 [~~105,000~~] and is wholly located in a county with a population of less than 265,000 [~~250,000~~]; or

(H) [~~(C)~~] has a population of more than 130,000 [~~100,000~~] and less than 140,000 [~~125,000~~] and is wholly located in a county with a population of more than 900,000 [~~650,000~~]; and

(2) a public improvement district established under this subchapter and solely composed of territory in which the only businesses are:

(A) hotels with 100 or more rooms ordinarily used for sleeping, if the district is established by a municipality described by Subdivision (1)(A); [~~or~~]

(B) hotels with 75 or more rooms ordinarily used for sleeping, if the district is established by a municipality described by Subdivision (1)(B), (D), (E), (F), (G), or (H) [~~(C)~~]; or

(C) hotels with 10 or more rooms ordinarily used for sleeping, if the district is established by a municipality described by Subdivision (1)(C).

(a-1) This section applies only to a public improvement district established by a municipality under this subchapter and solely composed of territory in which the only businesses are one or more hotels.

(b) Section 372.0035(e), Local Government Code, as added by Chapter 997 (H.B. 1474), Acts of the 86th Legislature, Regular Session, 2019, is redesignated as Section 372.0035(e-1), Local Government Code, to read as follows:

(e-1) [~~(e)~~] A municipality may undertake a project under this section only for a purpose described by Section 372.003(b)(13).

(c) The following provisions are repealed as duplicative of Section 372.0035(e), Local Government Code, as added by Chapter 997 (H.B. 1474), Acts of the 86th Legislature, Regular Session, 2019:

(1) Section 372.0035(e), Local Government Code, as added by Chapter 59 (S.B. 385), Acts of the 86th Legislature, Regular Session, 2019; and

(2) Section 372.0035(e), Local Government Code, as added by Chapter 1271 (S.B. 386), Acts of the 86th Legislature, Regular Session, 2019.

(d) Section 372.005(b-1), Local Government Code, is amended to read as follows:

(b-1) Notwithstanding Subsection (b), a petition for the establishment of a public improvement district described by Section

372.0035(a) or (a-1) is sufficient only if signed by record owners of taxable real property liable for assessment under the proposal who constitute:

(1) more than 60 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) more than 60 percent of:

(A) all record owners of taxable real property that are liable for assessment under the proposal; or

(B) the area of all taxable real property that is liable for assessment under the proposal.

SECTION 186. Section 372.151, Local Government Code, is amended to read as follows:

Sec. 372.151. APPLICABILITY. This subchapter applies only to a county that:

(1) does not wholly contain a [~~contains no~~] municipality with a population of more than 50,000; and

(2) is adjacent to at least two counties, each with a population of more than 2.1 [~~one~~] million.

SECTION 187. Section 373A.003(a), Local Government Code, is amended to read as follows:

(a) This chapter applies to a municipality with a population of more than 950,000 [~~750,000~~] that is located in a uniform state service region with fewer than 940,000 [~~550,000~~] occupied housing units as determined by the most recent United States decennial census.

SECTION 188. Section 377.051(e), Local Government Code, is amended to read as follows:

(e) Notwithstanding Subsection (d), a person may qualify to serve as a director of a district if the person resides in the independent school district that serves the majority of the district and the district is located in a municipality:

(1) with a population of more than 5,000 and less than 6,000 and that is located wholly in a county with a population of more than 20,000 and less than 25,000 and that borders the Brazos River; or

(2) with a population of more than 1,450 [~~1,488~~] and less than 2,500 and that is located wholly in a county with a population of more than 20,000 and less than 30,000 that borders the Neches River and the Trinity River.

SECTION 189. Section 381.001(c), Local Government Code, is amended to read as follows:

(c) In a county with a population of 15,800 [~~14,600~~] to 16,800 [~~14,800~~], or 16,950 [~~16,615~~] to 17,400 [~~16,715~~], or 18,600 [~~17,800~~] to 19,000 [~~18,000~~], or 24,600 to 24,800, a person appointed to the commission also must be serving or must have served on an industrial foundation committee, commissioners court, municipality's governing body, or school board. In addition, in those counties information obtained by the commission shall be available to the commissioners court.

SECTION 190. Section 382.002, Local Government Code, is amended to read as follows:

Sec. 382.002. APPLICABILITY. This chapter applies only

to:

(1) a county with a population of 1.5 million or more, other than a county that:

(A) borders on the Gulf of Mexico or a bay or inlet of the gulf; or

(B) has two municipalities located wholly or partly in its boundaries each having a population of 225,000 or more; or

(2) a county with a population of 70,000 or more that is adjacent to a county described by Subdivision (1) in which a municipality with a population of 90,000 [~~35,000~~] or more is primarily situated and includes all or a part of the extraterritorial jurisdiction of a municipality with a population of 1.1 million or more.

SECTION 191. Section 387.0031(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a district created by a county with a population of more than 800,000 [~~580,000~~] that borders a county with a population of more than four million.

SECTION 192. Section 392.0131(a), Local Government Code, is amended to read as follows:

(a) This section applies only to the merger of housing authorities operating in:

(1) a county that [~~has a population of 800,000 or more and~~] is located on the international border and contains a municipality with a population of 500,000 or more; and

(2) a municipality that has a population of more than

600,000 and less than 700,000 and is located in a county described by Subdivision (1).

SECTION 193. Sections 397.005(b) and (c), Local Government Code, are amended to read as follows:

(b) This subsection applies only to a defense community that includes a municipality with a population of more than 125,000 [~~110,000~~] located primarily in a county with a population of less than 145,000 [~~135,000~~] and that has not adopted airport zoning regulations under Chapter 241. A defense community that proposes to adopt or amend an ordinance, rule, or plan in an area located within eight miles of the boundary line of a military base or defense facility shall notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations.

(c) A defense community that proposes to adopt or amend an ordinance, rule, or plan that would be applicable in a controlled compatible land use area as defined by Section 241.003 and that may impact base operations shall notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

(1) is a county with a population of more than 1.5 million that contains a municipality in which at least 70 [~~75~~] percent of the county's population resides;

(2) is a county with a population of 170,000 [~~130,000~~] or more that is adjacent to a county described by Subdivision (1);

(3) is located in a county described by Subdivision (1) or (2); or

(4) is or includes a municipality that is located in a county with a population of more than 100,000 and less than 130,000 that borders the Red River.

SECTION 194. Sections 397.006(a) and (c), Local Government Code, are amended to read as follows:

(a) Subsection (b) applies only to a defense community that includes a municipality with a population of more than 125,000 [~~110,000~~] located primarily in a county with a population of less than 145,000 [~~135,000~~] and that has not adopted airport zoning regulations under Chapter 241.

(c) On receipt of an application for a permit as defined by Section 245.001 for a proposed structure that would be located in a controlled compatible land use area as defined by Section 241.003 and may impact base operations, a defense community shall notify the base or facility authorities concerning the compatibility of the proposed structure with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

(1) is a county with a population of more than 1.5 million that contains a municipality in which at least 70 [~~75~~] percent of the county's population resides;

(2) is a county with a population of 170,000 [~~130,000~~] or more that is adjacent to a county described by Subdivision (1);

(3) is located in a county described by Subdivision (1) or (2); or

(4) is or includes a municipality that is located in a county with a population of more than 100,000 and less than 130,000 that borders the Red River.

SECTION 195. Section 504.002, Local Government Code, is amended to read as follows:

Sec. 504.002. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality that:

(1) is located in a county that has a population of 500,000 or less; or

(2) has a population of less than 50,000 and:

(A) is located in two or more counties, one of which has a population of 500,000 or more;

(B) is located within the territorial limits of, but has not elected to become a part of, a metropolitan rapid transit authority:

(i) the principal municipality of which has a population of less than 1.9 million; and

(ii) that was created before January 1, 1980, under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, and is operating under Chapter 451, Transportation Code; or

(C) is located within the territorial limits of, but has not elected to become a part of, a regional transportation authority:

(i) the principal municipality of which has a population of more than 1.3 million [~~750,000~~]; and

(ii) that was created under Chapter 683,

Acts of the 66th Legislature, Regular Session, 1979, or Chapter 452, Transportation Code, and is operating under Chapter 452, Transportation Code.

SECTION 196. Section 505.157(a), Local Government Code, is amended to read as follows:

(a) In this section, "landlocked community" means a municipality that:

(1) is wholly or partly located in a county with a population of 2.5 [~~two~~] million or more; and

(2) has within its municipal limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the municipality's zoning laws or land use restrictions.

SECTION 197. Section 552.024(b), Local Government Code, is amended to read as follows:

(b) This section applies only to a home-rule municipality that:

(1) has a population of at least 99,000 and not more than 160,000;

(2) is located in two counties, only one of which has a population of at least 150,000 [~~132,000~~] and not more than 170,000; and

(3) owns and operates a water system, sewer system, or combined system.

SECTION 198. Section 552.044(1), Local Government Code, is amended to read as follows:

(1)(A) "Benefitted property" means an improved lot or tract to which drainage service is made available under this subchapter.

(B) "Benefitted property," in a municipality with a population of more than 1.18 million located primarily in a county with a population of 2.5 [~~2~~] million or more which is operating a drainage utility system under this chapter, means a lot or tract, but does not include land appraised for agricultural use, to which drainage service is made available under this subchapter and which discharges into a creek, river, slough, culvert, or other channel that is part of the municipality's drainage utility system. Sections 552.053(c)(2) and (c)(3) do not apply to a municipality described in this subdivision.

SECTION 199. Section 552.913(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a home-rule municipality that:

(1) has a population of more than 100,000;

(2) owns and operates an electric utility that is a member of a municipal power agency; and

(3) is located in a county adjacent to a county with a population of more than 2.5 [~~two~~] million.

SECTION 200. Section 562.016, Local Government Code, is amended to read as follows:

Sec. 562.016. COUNTY WATER AND SEWER SYSTEM. (a) A county may acquire, own, finance, operate, or contract for the operation of, a water or sewer utility system to serve an unincorporated area

of the county in the same manner and under the same regulations as a municipality under Chapter 552. The county must comply with all provisions of Chapter 13, Water Code, that apply to a municipality. However, a county with a population of 2.5 [~~two~~] million or more and any adjoining county may, with the municipality's approval, serve an area within a municipality.

(b) To finance the water or sewer utility system, a county may issue bonds payable solely from the revenue generated by the water or sewer utility system. A bond issued under this section is not a debt of the county but is only a charge on the revenues pledged and is not considered in determining the ability of the county to issue bonds for any other purpose authorized by law. This subsection does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. However, a county with a population of 2.5 [~~two~~] million or more and any adjoining county may issue general obligation bonds with the approval of qualified voters.

(c) A county may acquire any interest in property necessary to operate a system authorized by this section through any means available to the county, including eminent domain. A county may not use eminent domain under this subsection to acquire property in a municipality. Provided, however, a county with a population of 2.5 [~~two~~] million or more and any adjoining county may, with the municipality's approval, use the power of eminent domain under this subsection to acquire property within a municipality.

SECTION 201. Section 615.002(a), Local Government Code, is amended to read as follows:

(a) This section applies to a county with a population of:

(1) 14,800 [~~14,050~~] to 15,000 [~~14,250~~];

(2) 19,900 [~~19,700~~] to 20,000 [~~19,800~~];

(3) 21,300 [~~21,850~~] to 21,500 [~~22,000~~];

(4) 57,800 [~~54,000~~] to 57,900 [~~54,500~~];

(5) 36,000 [~~36,500~~] to 36,500 [~~36,800~~]; or

(6) 234,000 or more.

SECTION 202. Section 615.011(b), Local Government Code, is amended to read as follows:

(b) A county with a population of 44,500 [~~41,500~~] to 45,500 [~~42,500~~] may authorize the use of county equipment, machinery, and employees to construct, establish, and maintain a public airstrip in the county.

SECTION 203. Section 61.018(a-1), Natural Resources Code, is amended to read as follows:

(a-1) A county attorney, district attorney, or criminal district attorney or the attorney general may not file a suit under Subsection (a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach if:

(1) the line of vegetation establishing the boundary of the public beach moved as a result of a meteorological event that occurred before January 1, 2009;

(2) the house was located landward of the natural line of vegetation before the meteorological event;

(3) a portion of the house continues to be located landward of the line of vegetation; and

(4) the house is located on a peninsula in a county with a population of more than 315,000 [~~285,000~~] and less than 351,000 [~~300,000~~] that borders the Gulf of Mexico.

SECTION 204. Section 162.001(c-4), Occupations Code, is amended to read as follows:

(c-4) The board shall certify a health organization to contract with or employ physicians licensed by the board if the organization:

(1) is a hospital district:

(A) recognized by a federal agency as a public entity eligible to receive a grant related to a community or federally qualified health center described by Subdivision (2); and

(B) created in a county with a population of more than 1.2 million [~~800,000~~] that was not included in the boundaries of a hospital district before September 1, 2003; and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(l)(2)(B).

SECTION 205. Section 2026.011, Occupations Code, is amended to read as follows:

Sec. 2026.011. AUTOMOBILE RACING FACILITY PROHIBITED NEAR RACETRACK IN CERTAIN COUNTIES. An automobile racing facility may not be located within 10,000 feet of a horse or greyhound racetrack that is located in a county with a population of 2.1 [~~1.8~~] million

or more.

SECTION 206. Section 2301.6521(a), Occupations Code, is amended to read as follows:

(a) In this section, "affected county" means:

(1) a county with a population of 1.2 [~~one~~] million or more; or

(2) a county with a population of 800,000 [~~500,000~~] or more but less than 1.1 [~~one~~] million that is adjacent to a county with a population of 1.2 [~~one~~] million or more.

SECTION 207. Section 2308.209(b), Occupations Code, is amended to read as follows:

(b) This section applies only to the unincorporated area of a county:

(1) with a population of 450,000 or more that is adjacent to a county with a population of 3.3 million or more;

(2) with a population of less than 9,000 [~~10,000~~] that is located in a national forest; or

(3) adjacent to a county described by Subdivision (2) that has a population of less than 75,000.

SECTION 208. Section 61.021(c), Parks and Wildlife Code, is amended to read as follows:

(c) Subsection (b) applies only to hunting on land that is:

(1) owned or leased by the Kickapoo Traditional Tribe of Texas; and

(2) located in a county that:

(A) borders the United Mexican States and has a population of more than 50,000 but less than 70,000; or

(B) is adjacent to a county described by Paragraph (A) and has a population of less than 8,000 [~~9,000~~].

SECTION 209. Section 5.0622(a), Property Code, is amended to read as follows:

(a) This section applies only to a county with a population of less than 100,000 that is located in a metropolitan statistical area as defined by the federal Office of Management and Budget:

(1) with a population of more than 1.5 million; and

(2) adjacent to a different metropolitan statistical area as defined by the federal Office of Management and Budget with a population of more than 2.5 [~~2~~] million.

SECTION 210. Section 201.001(a), Property Code, is amended to read as follows:

(a) This chapter applies to a residential real estate subdivision that is located in whole or in part:

(1) within a city that has a population of more than 100,000, or within the extraterritorial jurisdiction of such a city;

(2) in the unincorporated area of:

(A) a county having a population of 3.3 million or more; or

(B) a county having a population of 50,000 [~~40,000~~] or more that is adjacent to a county having a population of 3.3 million or more; or

(3) in the incorporated area of a county having a population of 50,000 [~~40,000~~] or more that is adjacent to a county having a population of 3.3 million or more.

SECTION 211. Section 204.002(a), Property Code, is amended to read as follows:

(a) This chapter applies only to a residential real estate subdivision, excluding a condominium development governed by Title 7[~~, Property Code,~~] that is located in whole or in part:

(1) in a county with a population of 3.3 million or more;

(2) in a county with a population of not less than 315,000 [~~285,000~~] and not more than 351,000 [~~300,000~~] that is adjacent to the Gulf of Mexico and that is adjacent to a county having a population of 3.3 million or more; or

(3) in a county with a population of 275,000 or more that:

(A) is adjacent to a county with a population of 3.3 million or more; and

(B) contains part of a national forest.

SECTION 212. Section 210.002, Property Code, is amended to read as follows:

Sec. 210.002. APPLICABILITY OF CHAPTER. This chapter applies to a residential real estate subdivision that is located in a county with a population of:

(1) more than 200,000 and less than 233,500 [~~220,000~~]; or

(2) more than 45,000 and less than 85,000 [~~80,000~~] that is adjacent to a county with a population of more than 200,000 and less than 233,500 [~~220,000~~].

SECTION 213. Section 211.001(4), Property Code, is amended

to read as follows:

(4) "Residential real estate subdivision" or "subdivision" means all land encompassed within one or more maps or plats of land that is divided into two or more parts if:

(A) the maps or plats cover land all or part of which is not located within a municipality and:

(i) for a county with a population of less than 65,000, is not located within the extraterritorial jurisdiction of a municipality;

(ii) for a county with a population of at least 65,000 and less than 135,000, is located wholly within the extraterritorial jurisdiction of a municipality; or

(iii) for a county that borders Lake Buchanan and has a population of at least 21,000 [~~18,500~~] and less than 22,000 [~~19,500~~], is located wholly within the extraterritorial jurisdiction of a municipality;

(B) the land encompassed within the maps or plats is or was burdened by restrictions limiting all or at least a majority of the land area covered by the map or plat, excluding streets and public areas, to residential use only; and

(C) all instruments creating the restrictions are recorded in the deed or real property records of a county.

SECTION 214. Section 211.002(a), Property Code, is amended to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision:

(1) all or part of which is located within an

unincorporated area of a county if the county has a population of less than 65,000;

(2) all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000;

(3) all of which is located within the extraterritorial jurisdiction of a municipality located in a county that borders Lake Buchanan and has a population of at least 21,000 [~~18,500~~] and less than 22,000 [~~19,500~~]; or

(4) all or part of which is located within a county that borders Lake Livingston and has a population of less than 55,000 [~~50,000~~].

SECTION 215. Section 6.41(b-2), Tax Code, is amended to read as follows:

(b-2) An appraisal district board of directors for a district established in a county with a population of 1.2 [~~one~~] million or more by resolution of a majority of the board's members shall increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the appraisal review board, including the duties of each special panel established under Section 6.425.

SECTION 216. Section 11.18(p), Tax Code, is amended to read as follows:

(p) The exemption authorized by Subsection (d)(23) applies only to property that:

(1) is owned by a charitable organization that has been in existence for at least:

(A) 20 years if the property is located in a county described by Subdivision (4)(A); or

(B) two years if the property is located in a municipality described by Subdivision (4)(B);

(2) is located on a tract of land that:

(A) is at least 15 acres in size; and

(B) was either:

(i) owned by the organization on July 1, 2021; or

(ii) acquired by donation and owned by the organization on January 1, 2023;

(3) is used to provide permanent housing and related services to individuals described by that subsection; and

(4) is located in:

(A) a county with a population of more than 1.2 [~~one~~] million and less than 1.5 million; or

(B) a municipality with a population of more than 100,000 and less than 150,000 at least part of which is located in a county with a population of less than 5,500 [~~5,000~~].

SECTION 217. Sections 11.1825(s) and (v), Tax Code, are amended to read as follows:

(s) Unless otherwise provided by the governing body of a taxing unit any part of which is located in a county with a population of at least 2.1 [~~1.8~~] million under Subsection (x), for property described by Subsection (f)(1), the amount of the exemption under this section from taxation is 50 percent of the appraised value of the property.

(v) Notwithstanding any other provision of this section, an organization may not receive an exemption from taxation of property described by Subsection (f)(1) by a taxing unit any part of which is located in a county with a population of at least 2.1 [~~1.8~~] million unless the exemption is approved by the governing body of the taxing unit in the manner provided by law for official action.

SECTION 218. Section 11.315(b), Tax Code, is amended to read as follows:

(b) A person is entitled to an exemption from taxation by a taxing unit of an energy storage system owned by the person if:

(1) the exemption is adopted by the governing body of the taxing unit in the manner provided by law for official action by the governing body; and

(2) the energy storage system:

(A) is used, constructed, acquired, or installed wholly or partly to meet or exceed 40 C.F.R. Section 50.11 or any other rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air pollution;

(B) is located in:

(i) an area designated as a nonattainment area within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407); and

(ii) a municipality with a population of at least 150,000 [~~100,000~~] adjacent to a municipality with a population of more than two million;

(C) has a capacity of at least 10 megawatts; and

(D) is installed on or after January 1, 2014.

SECTION 219. Section 31.03(d), Tax Code, is amended to read as follows:

(d) This subsection applies only to a taxing unit located in a county having a population of not less than 315,000 [~~285,000~~] and not more than 351,000 [~~300,000~~] that borders a county having a population of 3.3 million or more and the Gulf of Mexico. The governing body of a taxing unit that has its taxes collected by another taxing unit that has adopted the split-payment option under Subsection (a) may provide, in the manner required by law for official action by the body, that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit.

SECTION 220. Sections 31.11(a) and (i), Tax Code, are amended to read as follows:

(a) If a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes, the collector for the unit determines that the payment was erroneous or excessive, and the auditor for the unit agrees with the collector's determination, the collector shall refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds. However, the collector may not make the refund unless:

(1) in the case of a collector who collects taxes for one taxing unit, the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:

(A) $5,000 for a refund to be paid by a county with a population of 2.5 [~~two~~] million or more; or

(B) $500 for a refund to be paid by any other taxing unit; or

(2) in the case of a collector who collects taxes for more than one taxing unit, the governing body of the taxing unit that employs the collector also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:

(A) $5,000 for a refund to be paid by a county with a population of 2.5 [~~two~~] million or more; or

(B) $2,500 for a refund to be paid by any other taxing unit.

(i) Notwithstanding the other provisions of this section, in the case of an overpayment or erroneous payment of taxes submitted by a taxpayer to a collector who collects taxes for one or more taxing units one of which is a county with a population of 2.5 [~~two~~] million or more:

(1) a taxpayer is not required to apply to the collector for the refund to be entitled to receive the refund if the amount of the refund is at least $5 but does not exceed $5,000; and

(2) the collector is not required to comply with Subsection (g) unless the amount of the payment exceeds by more than $5,000 the amount of taxes owed for a tax year to a taxing unit for which the collector collects taxes.

SECTION 221. Section 156.2512(c)(1), Tax Code, is amended to read as follows:

(1) "Eligible barrier island coastal municipality" means a municipality:

(A) that borders on the Gulf of Mexico;

(B) that is located wholly or partly on a barrier island; and

(C) that:

(i) includes an institution of higher education that is part of the Texas Coastal Ocean Observation Network under Section 33.065, Natural Resources Code;

(ii) includes a national estuarine research reserve;

(iii) is located within 30 miles of the United Mexican States; or

(iv) has a population of less than 10,000 and is located in a county with a population of at least 370,000 [~~300,000~~] that is adjacent to a county with a population of at least 3,000,000.

SECTION 222. Section 311.0091(a), Tax Code, is amended to read as follows:

(a) This section applies to a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 2.1 [~~1.8~~] million in which the principal municipality has a population of 1.1 million or more.

SECTION 223. Section 311.013(m), Tax Code, is amended to read as follows:

(m) The governing body of a municipality that is located in a county with a population of more than 2.1 [~~1.8~~] million but less

than 2.5 [~~1.9~~] million or in a county with a population of 3.3 million or more by ordinance may reduce the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone. The municipality may not reduce under this subsection the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone unless the municipality provides each county that has entered into an agreement with the municipality to pay all or a portion of the county's tax increment into the fund an opportunity to enter into an agreement with the municipality to reduce the portion of the tax increment produced by the county that the county is required to pay into the tax increment fund for the zone by the same proportion that the portion of the municipality's tax increment that the municipality is required to pay into the fund is reduced. The portion of the tax increment produced by a municipality that the municipality is required to pay into the tax increment fund for a reinvestment zone, as reduced by the ordinance adopted under this subsection, together with all other revenues required to be paid into the fund, must be sufficient to complete and pay for the estimated costs of projects listed in the reinvestment zone financing plan and pay any tax increment bonds or notes issued for the zone, and any other obligations of the zone.

SECTION 224. Section 311.017(a-1), Tax Code, as added by Chapter 137 (S.B. 1105), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(a-1) This subsection applies only to a reinvestment zone

created by a municipality that has a population of more than 256,000 [~~220,000~~] but less than 280,000 [~~235,000~~] and is the county seat of a county that has a population of 325,000 [~~280,000~~] or less. Notwithstanding Subsection (a)(1), a municipality by ordinance adopted subsequent to the ordinance adopted by the municipality creating a reinvestment zone may designate a termination date for the zone that is later than the termination date designated in the ordinance creating the zone but not later than the 20th anniversary of that date. If a municipality adopts an ordinance extending the termination date for a reinvestment zone as authorized by this subsection, the zone terminates on the earlier of:

(1) the termination date designated in the ordinance; or

(2) the date provided by Subsection (a)(2).

SECTION 225. Section 325.021(a), Tax Code, is amended to read as follows:

(a) A county having a population of 60,000 [~~55,000~~] or less that borders the Rio Grande containing a municipality with a population of more than 22,000 may adopt or abolish the sales and use tax authorized by this chapter at an election held in the county.

SECTION 226. Section 327.007(a), Tax Code, is amended to read as follows:

(a) Unless imposition of the sales and use tax authorized by this chapter is reauthorized as provided by this section, the tax expires on:

(1) the fourth anniversary of the date the tax

originally took effect under Section 327.005;

(2) the first day of the first calendar quarter occurring after the fourth anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary;

(2-a) if the tax is imposed in a municipality that is intersected by two interstate highways, that has a population of 150,000 or more, and in which at least 66 percent of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the tax favored adoption or reauthorization, and that tax has not expired as provided by Subdivision (1) or (2) since the first of those two consecutive elections, the last day of the first calendar quarter occurring after the eighth anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary instead of the period described by Subdivision (2); or

(3) if the tax is imposed in a [~~general-law~~] municipality with a population of more than 11,450 and less than 11,550 [~~10,000 or more surrounded entirely by a municipality with a population of 1.3 million or more~~], the last day of the first calendar quarter occurring after the 10th anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary instead of the period described by Subdivision (2).

SECTION 227. Section 351.001(7), Tax Code, is amended to read as follows:

(7) "Eligible central municipality" means:

(A) a municipality with a population of more than 140,000 but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(B) a municipality with a population of 250,000 or more that:

(i) is located wholly or partly on a barrier island that borders the Gulf of Mexico;

(ii) is located in a county with a population of 300,000 or more; and

(iii) has adopted a capital improvement plan to expand an existing convention center facility;

(C) a municipality with a population of 200,000 [~~116,000~~] or more that:

(i) is located in two counties both of which have a population of 900,000 [~~660,000~~] or more; and

(ii) has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(D) a municipality with a population of less than 50,000 that contains a general academic teaching institution that is not a component institution of a university system, as those terms are defined by Section 61.003, Education Code; or

(E) a municipality with a population of 640,000

or more that:

(i) is located on an international border; and

(ii) has adopted a capital improvement plan for the construction or expansion of a convention center facility.

SECTION 228. Sections 351.101(a), (i), (j), (o), and (p), Tax Code, are amended to read as follows:

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity if:

(A) the municipality is located in a county with a population of one million or less;

(B) the municipality has a population of more than 67,000 and is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 800,000 [~~580,000~~], and the remaining territory located in a county with a population of at least four million; or

(C) the municipality has a population of at least 200,000 and shares a border with:

(i) a municipality with a population of at least 62,000 that:

(a) borders Lake Ray Hubbard; and

(b) is located in two counties, one of which has a population of less than 110,000 [~~described by Section~~

~~351.102(e)(7)~~]; and

(ii) Lake Ray Hubbard;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 610,000 [~~350,000~~] or less;

(ii) has a population of at least 80,000 [~~75,000~~] but not more than 125,000 [~~95,000~~] and is located in a county that has a population of less than 240,000 [~~200,000~~] but more than 233,500 [~~160,000~~];

(iii) has:

(a) a population of at least 10,000 [~~36,000 but not more than 39,000~~] and is located in a county that has a population of more than 70,000 and borders Lake Livingston; or

(b) [~~has~~] a population of 36,000 [~~100,000~~] or more and [~~less that~~] is located in a county with a population of less than 95,000 that borders Oklahoma [~~not adjacent to a county with a population of more than two million~~];

(iv) has a population of at least 13,000 but less than 48,000 [~~39,000~~] and is located in a county that has a population of at least 200,000;

(v) has a population of at least 70,000 but

less than 90,000 and no part of which is located in a county with a population greater than 150,000;

(vi) is located in a county that:

(a) is adjacent to the Texas-Mexico border;

(b) has a population of at least 500,000; and

(c) does not have a municipality with a population greater than 500,000;

(vii) [~~has a population of at least 25,000 but not more than 26,000 and~~] is located in a county that has a population of 100,000 [~~90,000~~] or less and the municipality has a population of:

(a) more than 24,400 and less than 25,000; or

(b) more than 28,150 and less than 31,000;

(viii) is located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located;

(ix) has a population of at least 40,000 and the San Marcos River flows through the municipality;

(x) has a population of more than 67,000 and is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 800,000 [~~580,000~~], and the remaining territory located in a county with a population of at least four million;

(xi) contains an intersection of Interstates 35E and 35W and at least two public universities; or

(xii) is described by Subdivision (6)(C); and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments;

(8) for a municipality with a population of at least 70,000 but less than 90,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility;

(9) signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;

(10) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility, if the municipality:

(A) has a population of at least 90,000 but less than 120,000; and

(B) is located in two counties, at least one of which contains the headwaters of the San Gabriel River; and

(11) for a municipality with a population of more than 175,000 but less than 225,000 that is located in two counties, each of which has a population of less than 200,000, the construction, improvement, enlarging, equipping, repairing, operation, and

maintenance of a coliseum or multiuse facility and related infrastructure or a venue, as defined by Section 334.001(4), Local Government Code, that is related to the promotion of tourism.

(i) In addition to the purposes provided by Subsection (a), a municipality that has a population of at least 80,000 [~~75,000~~] but not more than 125,000 [~~95,000~~] and that is located in a county that has a population of more than 233,500 [~~160,000~~] but less than 240,000 [~~200,000~~] may use revenue from the municipal hotel tax to promote tourism and the convention and hotel industry by constructing, operating, or expanding a sporting related facility or sports field owned by the municipality, if the majority of the events at the facility or field are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in the municipality.

(j) In addition to the purposes provided by Subsection (a), a municipality that has a population of not more than 5,500 [~~5,000~~] and at least part of which is located less than one-eighth of one mile from a space center operated by an agency of the federal government may use revenue from the municipal hotel occupancy tax for expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity.

(o) In addition to the purposes provided by Subsection (a), a municipality that has a population of not more than 15,200 [~~10,000~~], that contains an outdoor gear and sporting goods retailer

with retail space larger than 175,000 square feet, and that hosts an annual wiener dog race may use revenue from the municipal hotel occupancy tax to promote tourism and the convention and hotel industry by constructing, operating, or expanding a sporting related facility or sports field owned by the municipality, if the majority of the events at the facility or field are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in the municipality. If a municipality to which this subsection applies uses revenue derived from the municipal hotel occupancy tax for a purpose described by this subsection, the municipality may not reduce the percentage of revenue from that tax allocated for a purpose described by Subsection (a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue for a purpose described by this subsection.

(p) In addition to the purposes provided by Subsection (a), a municipality with a population of more than 70,000 [~~48,000~~] but less than 115,000 [~~95,000~~] that is located in two counties, one of which has a population of at least 1.1 million [~~900,000~~] but less than 1.9 [~~1.7~~] million, may use revenue from the municipal hotel occupancy tax to promote tourism and the convention and hotel industry by constructing, improving, equipping, repairing, maintaining, operating, or expanding a coliseum or multiuse facility if the majority of the events at the coliseum or facility attract tourists who substantially increase economic activity at

hotels in the municipality.

SECTION 229. Section 351.1015(b), Tax Code, is amended to read as follows:

(b) This section applies only to a qualified project located in a municipality with a population of at least 700,000 [~~650,000~~] but less than 950,000 [~~750,000~~] according to the most recent federal decennial census.

SECTION 230. Section 351.102(e), Tax Code, is amended to read as follows:

(e) Subsection (b) applies only to:

(1) a municipality with a population of two million or more;

(2) a municipality with a population of 700,000 or more but less than 1.4 [~~1.3~~] million;

(3) a municipality with a population of 350,000 or more but less than 450,000 in which at least two professional sports stadiums are located, each of which:

(A) has a seating capacity of at least 40,000 people; and

(B) was approved by the voters of the municipality as a sports and community venue project under Chapter 334, Local Government Code; and

(4) a municipality with a population of less than 2,000 that:

(A) is located adjacent to a bay connected to the Gulf of Mexico;

(B) is located in a county with a population of

290,000 or more that is adjacent to a county with a population of four million or more; and

(C) has a boardwalk on the bay.

SECTION 231. Section 351.104(a), Tax Code, is amended to read as follows:

(a) This section applies only to a home-rule municipality that borders a bay, that has a population of less than 85,000 [~~80,000~~], and that is not an eligible coastal municipality.

SECTION 232. Section 351.1066(a), Tax Code, is amended to read as follows:

(a) This section applies only to:

(1) a municipality with a population of at least 3,500 but less than 5,500 that is the county seat of a county with a population of less than 50,000 that borders a county with a population of more than 1.6 million;

(2) a municipality with a population of at least 2,800 [~~2,900~~] but less than 3,500 that is the county seat of a county with a population of less than 22,000 that is bordered by the Trinity River and includes a state park and a portion of a wildlife management area;

(3) a municipality with a population of at least 8,000 [~~7,500~~] that is located in a county that borders the Pecos River and that has a population of not more than 15,000;

(4) a municipality with a population of not more than 15,000 that is located in a county through which the Frio River flows and an interstate highway crosses, and that has a population of at least 15,000;

(5) a municipality with a population of not less than 7,500 that is located in a county with a population of not less than 40,000 but less than 250,000 that is adjacent to a county with a population of less than 750;

(6) a municipality that is the county seat of a county with a population of at least 8,500 and that county contains part of the Chaparral Wildlife Management Area; and

(7) a municipality that has a population of not more than 25,000, that contains a cultural heritage museum, and that is located in a county that borders the United Mexican States and the Gulf of Mexico.

SECTION 233. Section 351.10692(a), Tax Code, is amended to read as follows:

(a) This section applies only to a municipality with a population of less than 5,000 [~~2,000~~] located in a county that:

(1) is adjacent to the county in which the State Capitol is located; and

(2) has a population of:

(A) not more than 25,000; or

(B) at least 200,000 [~~100,000~~] but not more than 300,000 [~~200,000~~].

SECTION 234. Section 351.1071(a), Tax Code, is amended to read as follows:

(a) This section applies only to a municipality:

(1) that has a population of not more than 5,500 [~~5,000~~]; and

(2) at least part of which is located less than

one-eighth of one mile from a space center operated by an agency of the federal government.

SECTION 235. Section 351.10712(a), Tax Code, is amended to read as follows:

(a) This section applies only to:

(1) a municipality with a population of at least 95,000 that is located in a county that is bisected by United States Highway 385 and has a population of not more than 170,000 [~~140,000~~]; and

(2) a municipality located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located.

SECTION 236. Section 351.152, Tax Code, is amended to read as follows:

Sec. 351.152. APPLICABILITY. This subchapter applies only to:

(1) a municipality described by Section 351.001(7)(B);

(2) a municipality described by Section 351.001(7)(D);

(3) a municipality described by Section 351.001(7)(E);

(4) a municipality described by Section 351.102(e)(3);

(5) a municipality that contains more than 70 [~~75~~] percent of the population of a county with a population of 1.5 million or more;

(6) a municipality with a population of 175,000 [~~150,000~~] or more but less than 200,000 that is partially located in at least one county with a population of 125,000 or more;

(7) a municipality with a population of 250,000 [~~150,000~~] or more but less than one million that is located in one county with a population of 2.5 [~~2.3~~] million or more;

(8) a municipality with a population of 180,000 or more that:

(A) is located in two counties, each with a population of 100,000 or more; and

(B) contains an American Quarter Horse Hall of Fame and Museum;

(9) a municipality with a population of 96,000 or more that is located in a county that borders Lake Palestine;

(10) a municipality with a population of 96,000 or more that is located in a county that contains the headwaters of the San Gabriel River;

(11) a municipality with a population of at least 95,000 [~~99,900 or more but less than 111,000~~] that is located in a county that is bisected by United States Highway 385 and has [~~with~~] a population of not more than 170,000 [~~135,000 or more~~];

(12) a municipality with a population of 110,000 or more but less than 135,000 at least part of which is located in a county with a population of less than 135,000;

(13) a municipality with a population of 28,000 [~~9,000~~] or more but less than 31,000 [~~10,000~~] that is located in two counties, each of which has a population of 900,000 [~~662,000~~] or

more and a southern border with a county with a population of 2.5 [~~2.3~~] million or more;

(14) a municipality with a population of 200,000 or more but less than 300,000 that contains a component institution of the Texas Tech University System;

(15) a municipality with a population of 95,000 or more that:

(A) is located in more than one county; and

(B) borders Lake Lewisville;

(16) a municipality with a population of 45,000 or more that:

(A) contains a portion of Cedar Hill State Park;

(B) is located in two counties, one of which has a population of 2.5 [~~two~~] million or more and one of which has a population of 190,000 [~~149,000~~] or more; and

(C) has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(17) a municipality with a population of less than 10,000 [~~6,000~~] that:

(A) is almost wholly located in a county with a population of 900,000 [~~600,000~~] or more that is adjacent to a county with a population of 2.5 [~~two~~] million or more;

(B) is partially located in a county with a population of 2.1 [~~1.8~~] million or more that is adjacent to a county with a population of 2.5 [~~two~~] million or more;

(C) has a visitor center and museum located in a 19th-century rock building in the municipality's downtown; and

(D) has a waterpark open to the public;

(18) a municipality with a population of 60,000 [~~56,000~~] or more that:

(A) borders Lake Ray Hubbard; and

(B) is located in two counties, one of which has a population of less than 110,000 [~~80,000~~];

(19) a municipality with a population of 110,000 [~~83,000~~] or more that:

(A) borders Clear Lake; and

(B) is primarily located in a county with a population of less than 355,000 [~~300,000~~];

(20) a municipality with a population of less than 2,000 that:

(A) is located adjacent to a bay connected to the Gulf of Mexico;

(B) is located in a county with a population of 290,000 or more that is adjacent to a county with a population of four million or more; and

(C) has a boardwalk on the bay;

(21) a municipality with a population of 75,000 or more that:

(A) is located wholly in one county with a population of 800,000 [~~575,000~~] or more that is adjacent to a county with a population of four million or more; and

(B) has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(22) a municipality with a population of less than

70,000 [~~75,000~~] that is located in three counties, at least one of which has a population of four million or more;

(23) an eligible coastal municipality with a population of 2,900 [~~3,000~~] or more but less than 5,000;

(24) a municipality with a population of 90,000 or more but less than 150,000 that:

(A) is located in three counties; and

(B) contains a branch campus of a component institution of the University of Houston System;

(25) a municipality that is:

(A) primarily located in a county with a population of four million or more; and

(B) connected by a bridge to a municipality described by Subdivision (20);

(26) a municipality with a population of 25,000 [~~20,000~~] or more but less than 30,000 [~~25,000~~] that:

(A) contains a portion of Mustang Bayou; and

(B) is wholly located in a county with a population of less than 500,000;

(27) a municipality with a population of 70,000 or more but less than 90,000 that is located in two counties, one of which has a population of four million or more and the other of which has a population of less than 50,000;

(28) a municipality with a population of 10,000 or more that:

(A) is wholly located in a county with a population of four million or more; and

(B) has a city hall located less than three miles from a space center operated by an agency of the federal government;

(29) a municipality that is the county seat of a county:

(A) through which the Pedernales River flows; and

(B) in which the birthplace of a president of the United States is located;

(30) a municipality that contains a portion of U.S. Highway 79 and State Highway 130;

(31) a municipality with a population of 70,000 [~~48,000~~] or more but less than 115,000 [~~95,000~~] that is located in two counties, one of which has a population of 1.1 million [~~900,000~~] or more but less than 1.9 [~~1.7~~] million;

(32) a municipality with a population of less than 25,000 that contains a museum of Western American art;

(33) a municipality with a population of 50,000 or more that is the county seat of a county that contains a portion of the Sam Houston National Forest;

(34) a municipality with a population of less than 25,000 that:

(A) contains a cultural heritage museum; and

(B) is located in a county that borders the United Mexican States and the Gulf of Mexico;

(35) a municipality that is the county seat of a county that:

(A) has a population of 115,000 or more;

(B) is adjacent to a county with a population of

2.1 [~~1.8~~] million or more; and

(C) hosts an annual peach festival;

(36) a municipality that is the county seat of a county that:

(A) has a population of 800,000 [~~585,000~~] or more; and

(B) is adjacent to a county with a population of four million or more;

(37) a municipality with a population of less than 10,000 that:

(A) contains a component university of The Texas A&M University System; and

(B) is located in a county adjacent to a county that borders Oklahoma;

(38) a municipality with a population of less than 17,000 [~~6,100~~] that:

(A) is located in two counties, each of which has a population of 900,000 [~~600,000~~] or more but less than two million; and

(B) hosts an annual Cajun Festival;

(39) a municipality with a population of 13,000 or more that:

(A) is located on an international border; and

(B) is located in a county:

(i) with a population of less than 400,000; and

(ii) in which at least one World Birding

Center site is located;

(40) a municipality with a population of 3,200 [~~4,000~~] or more that:

(A) is located on an international border; and

(B) is located not more than five miles from a state historic site that serves as a visitor center for a state park that contains 300,000 or more acres of land;

(41) a municipality with a population of 36,000 or more that is adjacent to at least two municipalities described by Subdivision (15);

(42) a municipality with a population of 28,000 or more in which is located a historic railroad depot and heritage center;

(43) a municipality located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located;

(44) a municipality with a population of less than 500,000 that is:

(A) located in two counties; and

(B) adjacent to a municipality described by Subdivision (31); and

(45) a municipality that:

(A) has a population of more than 67,000; and

(B) is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 800,000 [~~580,000~~], and the remaining territory located in a county with a population of at least four million.

SECTION 237. Sections 352.002(a), (a-1), (d), (p), and (y), Tax Code, are amended to read as follows:

(a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2 or more each day, and is ordinarily used for sleeping:

(1) a county that has a population of more than 3.3 million;

(2) a county that has a population of 90,000 or more, borders the United Mexican States, does not border the Gulf of Mexico, and does not have four or more cities that each have a population of more than 25,000;

(3) a county in which there is no municipality;

(4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;

(5) a county that has a population of 30,000 or less, that has no more than one municipality with a population of less than 2,500, and that borders two counties located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(6) a county that borders the Gulf of Mexico;

(7) a county that has a population of less than 5,000, that borders the United Mexican States, and in which there is located a major observatory;

(8) a county that has a population of 12,000 or less

and borders the Toledo Bend Reservoir;

(9) a county that has a population of less than 12,500 and an area of less than 275 square miles and does not border a county that borders Arkansas and Louisiana;

(10) a county that has a population of 30,000 or less and borders Possum Kingdom Lake;

(11) a county that borders a county with a population of more than 300,000 and the United Mexican States and has a population of more than 300,000 and less than 900,000 [~~800,000~~];

(12) a county that has a population of 35,000 or more and borders or contains a portion of Lake Fork Reservoir;

(13) a county that borders the United Mexican States and in which there is located a national recreation area;

(14) a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres;

(15) a county that has a population of 28,000 or less, that has no more than four municipalities, and that is located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(16) a county that has a population of 25,000 or less, whose territory is less than 750 square miles, and that has two incorporated municipalities, each with a population of 800 or less, at least one of which is located on the Frio River;

(17) a county that has a population of 34,000 or more and borders Lake Buchanan;

(18) a county that has a population of more than 45,000

and less than 75,000, that borders the United Mexican States, and that borders or contains a portion of Falcon Lake;

(19) a county with a population of 22,000 or less that borders the Neches River and in which there is located a national preserve;

(20) a county that has a population of 28,000 or less and that borders or contains a portion of Lake Livingston;

(21) a county through which the Pedernales River flows and in which the birthplace of a president of the United States is located;

(22) a county that has a population of 35,000 or less [~~more than 15,000 but less than 20,000~~] and borders Lake Buchanan;

(23) a county with a population of less than 11,000 that is bordered by the Sulphur River;

(24) a county that has a population of 16,000 or more and borders the entire north shore of Lake Somerville;

(25) a county that has a population of 20,000 or less and that is bordered by the Brazos and Navasota Rivers;

(26) a county that has a population of more than 15,000 and less than 25,000 and is located on the Trinity and Navasota Rivers;

(27) a county that has a population of less than 15,000 and that is bordered by the Trinity and Navasota Rivers;

(28) a county that borders or contains a portion of the Neches River, the Sabine River, and Sabine Lake; and

(29) a county that borders Whitney Lake.

(a-1) In addition to the counties described by Subsection

(a), the commissioners court of a county in which an airport essential to the economy of the county is located may by the adoption of an order or resolution impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2 or more each day, and is ordinarily used for sleeping. For the purposes of this subsection, an airport is considered to be essential to the economy of a county only if the airport is a commercial-service international airport within Class C airspace and is located in a county and owned by a municipality each having a population of less than 170,000 [~~150,000~~]. This subsection does not apply to a county described by Subsection (a)(13).

(d) The tax imposed by a county authorized by Subsection (a)(6), (8), (9), (10), (11), (14), (15), (17), (19), (20), (21), (23), or (29) to impose the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel. This subsection does not apply to:

(1) a county authorized by Subsection (a)(6) to impose the tax that:

(A) has a population of less than 50,000 [~~40,000~~] and adjoins the most populous county in this state; or

(B) has a population of more than 200,000 and borders the Neches River; or

(2) a county authorized by Subsection (a)(9) to impose the tax that has a population of more than 11,000 [~~9,000~~].

(p) The commissioners court of a county that has a

population of 100,000 [~~80,000~~] or less, in which two state parks are located, and through which the Colorado River flows but that is not bordered by that river may impose a tax as authorized by Subsection (a).

(y) The commissioners court of a county with a population of 170,000 [~~110,000~~] or more through which the Guadalupe River flows may impose a tax as provided by Subsection (a). The tax imposed under this subsection does not apply to a hotel located in a municipality that:

(1) has a population of 80,000 [~~50,000~~] or more;

(2) is the county seat of a county adjacent to the county to which this subsection applies; and

(3) imposes a tax under Chapter 351 applicable to the hotel.

SECTION 238. Section 352.003(e), Tax Code, is amended to read as follows:

(e) The tax rate in a county authorized to impose the tax under Section 352.002(a)(6) and that has a population of less than 50,000 [~~40,000~~] and adjoins the most populous county in this state may not exceed three percent of the price paid for a room in a hotel.

SECTION 239. Section 22.053(a), Transportation Code, is amended to read as follows:

(a) The commissioners court of a county with a population of 12,200 [~~14,300~~] to 12,400 [~~14,500~~] may issue time warrants to:

(1) condemn or purchase land to be used and maintained as provided by Sections 22.011, 22.020, and 22.024; and

(2) improve and equip the land for the use provided by

Sections 22.011, 22.020, and 22.024.

SECTION 240. Section 172.211(a), Transportation Code, is amended to read as follows:

(a) This section applies only to a county that:

(1) is adjacent to a county with a population of four million or more;

(2) has a population of 370,000 [~~300,000~~] or more; and

(3) has created a district by concurrent order with an adjacent county pursuant to Section 172.052.

SECTION 241. Section 223.052(a), Transportation Code, is amended to read as follows:

(a) This section applies only to a municipality that:

(1) is partially located in three counties, two of which have a population of 2.1 [~~1.8~~] million or more;

(2) is primarily located in a county with a population of 2.1 [~~1.8~~] million or more; and

(3) has within its boundaries all or part of an international airport operated jointly by two municipalities.

SECTION 242. Section 284.002(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b), this chapter applies only to a county that:

(1) has a population of 50,000 or more and borders the Gulf of Mexico or a bay or inlet opening into the gulf;

(2) has a population of 2.5 [~~two~~] million or more;

(3) is adjacent to a county that has a population of 2.5 [~~two~~] million or more; or

(4) borders the United Mexican States.

SECTION 243. Section 285.001(b), Transportation Code, is amended to read as follows:

(b) The commissioners court of a county with a population of more than 870,000 [~~700,000 and less than 800,000~~] that borders the United Mexican States by order may regulate the activities described by Subsection (a) in the manner described by that subsection, except that:

(1) the regulation of activities on or in the right-of-way of a public highway or road is limited to public highways and roads with a speed limit of 40 miles per hour or faster; and

(2) the county may not prohibit the sale of livestock.

SECTION 244. Section 362.055, Transportation Code, is amended to read as follows:

Sec. 362.055. EXCEPTION. This subchapter does not apply to:

(1) a county that has a population of more than 2.5 [~~two~~] million;

(2) a local government corporation created under Chapter 431 by a county that has a population of more than 2.5 [~~two~~] million; or

(3) a regional tollway authority created under Chapter 366.

SECTION 245. Section 366.031(a), Transportation Code, is amended to read as follows:

(a) Two or more counties, acting through their respective

commissioners courts, may by order passed by each commissioners court create a regional tollway authority under this chapter if:

(1) one of the counties has a population of not less than 300,000;

(2) the counties form a contiguous territory; and

(3) unless one of the counties has a population of 2.5 [~~two~~] million or more, the commission approves the creation.

SECTION 246. Section 370.192, Transportation Code, is amended to read as follows:

Sec. 370.192. PROPERTY OF RAPID TRANSIT AUTHORITIES. An authority may not condemn or purchase real property of a rapid transit authority operating pursuant to Chapter 451 that was confirmed before July 1, 1985, and in which the principal municipality has a population of less than 1.3 million [~~850,000~~], unless the authority has entered into a written agreement with the rapid transit authority specifying the terms and conditions under which the condemnation or the purchase of the real property will take place.

SECTION 247. Section 396.041(c), Transportation Code, is amended to read as follows:

(c) An ordinance may:

(1) impose a fee of $25 for the issuance or renewal of a license;

(2) impose a fee of not more than:

(A) $150 for the issuance or renewal of a license, if the ordinance is adopted by the commissioners court of a county with a population of 2.1 [~~one~~] million or more that contains

two or more municipalities, each of which has a population of 350,000 [~~250,000~~] or more; or

(B) $500 for the issuance or renewal of a license, if the ordinance is adopted by the commissioners court of a county with a population of 3.3 million or more;

(3) condition the license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners court or a county employee designated by the commissioners court; or

(4) establish grounds for suspending or revoking a license if the junkyard or automotive wrecking and salvage yard is not screened.

SECTION 248. Section 451.061(d-1), Transportation Code, is amended to read as follows:

(d-1) The establishment of or a change to fares, tolls, charges, rents, and other compensation by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~], takes effect immediately on approval by a majority vote of the board, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

SECTION 249. Section 451.068(a), Transportation Code, is amended to read as follows:

(a) An authority confirmed before July 1, 1985, and in which

the principal municipality has a population of less than 1.3 million [~~850,000~~] may, through the operation of a program, charge no fares.

SECTION 250. Section 451.071(a), Transportation Code, is amended to read as follows:

(a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~].

SECTION 251. Section 451.106(a), Transportation Code, is amended to read as follows:

(a) The board of an authority in which the principal municipality has a population of less than 1.3 million [~~850,000~~] or more than 1.9 million shall employ a general manager to administer the daily operation of the authority. The general manager may, subject to the annual operating budget and to the personnel policies adopted by the board, employ persons to conduct the affairs of the authority and prescribe their duties and compensation.

SECTION 252. Section 451.108(c), Transportation Code, is amended to read as follows:

(c) A peace officer commissioned under this section, except as provided by Subsections (d) and (e), or a peace officer contracted for employment by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~], may:

(1) make an arrest in any county in which the transit authority system is located as necessary to prevent or abate the

commission of an offense against the law of this state or a political subdivision of this state if the offense or threatened offense occurs on or involves the transit authority system;

(2) make an arrest for an offense involving injury or detriment to the transit authority system;

(3) enforce traffic laws and investigate traffic accidents that involve or occur in the transit authority system; and

(4) provide emergency and public safety services to the transit authority system or users of the transit authority system.

SECTION 253. Section 451.109(d), Transportation Code, is amended to read as follows:

(d) This section does not apply to an authority in which the principal municipality has a population of 1.3 million [~~850,000~~] or more but not more than 1.9 million.

SECTION 254. Section 451.3625(a), Transportation Code, is amended to read as follows:

(a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~].

SECTION 255. Section 451.452(d), Transportation Code, is amended to read as follows:

(d) This section applies only to an authority in which the principal municipality has a population of more than 1.9 million or less than 1.3 million [~~850,000~~], except that Subsections (a)(5) and (6) do not apply to an authority in which the principal municipality

has a population of more than 1.9 million.

SECTION 256. Section 451.454(a), Transportation Code, is amended to read as follows:

(a) The board of an authority in which the principal municipality has a population of more than 1.9 million or less than 1.3 million [~~850,000~~] shall contract at least once every four years for a performance audit of the authority to be conducted by a firm that has experience in reviewing the performance of transit agencies.

SECTION 257. Section 451.458(a), Transportation Code, is amended to read as follows:

(a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~].

SECTION 258. Section 451.460(a), Transportation Code, is amended to read as follows:

(a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~].

SECTION 259. Section 451.5021(a), Transportation Code, is amended to read as follows:

(a) This section applies only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 1.3 million [~~850,000~~].

SECTION 260. Section 451.506(c), Transportation Code, is amended to read as follows:

(c) An individual may serve two terms as presiding officer

under Section 451.502(e)(3), in addition to any service on the board before being appointed under that subsection. This subsection does not apply to an individual serving on the board of an authority described by Subsection (b) or an authority confirmed before July 1, 1985, and in which the principal municipality has a population of less than 1.3 million [~~850,000~~].

SECTION 261. Sections 451.509(a), (c), and (d), Transportation Code, are amended to read as follows:

(a) In an authority in which the principal municipality has a population of less than 1.3 million [~~850,000~~] and in which the authority's sales and use tax is imposed at a rate of one percent, a member of the board may be removed from office for any ground described by Section 451.510 by a majority vote of the entity that appointed the member.

(c) In an authority in which the principal municipality has a population of more than 1.3 million [~~850,000~~], a member of the board may be removed for any ground described by Section 451.510 by the person or entity that appointed the member. If the person who appointed the member is the mayor of the principal municipality, the removal is by recommendation of the mayor and confirmation by the municipality's governing body. If the member to be removed was appointed by the mayor of the principal municipality, the statement required by Section 451.511(a) shall be given by the mayor, and confirmation of removal by the governing body of the municipality is necessary.

(d) In an authority in which the principal municipality has a population of less than 1.3 million [~~850,000~~] or more than 1.9

million, a general manager who has knowledge that a potential ground for removal applicable to a member of the authority's board exists shall notify the presiding officer of the board of the ground, and the presiding officer shall notify the person that appointed the member against whom the potential ground applies of the ground.

SECTION 262. Section 451.512(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b), in an authority in which the principal municipality has a population of less than 1.3 million [~~850,000~~] or more than 1.9 million, an action of the board is not invalid because a ground for removal of a board member exists.

SECTION 263. Section 451.513(a), Transportation Code, is amended to read as follows:

(a) A board member of an authority that has a principal municipality with a population of more than 1.3 million [~~850,000~~] may be removed, as provided by this section, on a petition for the recall of the member submitted by the registered voters of the authority. Recall of a member under this section is in addition to any other method for removal under this subchapter.

SECTION 264. Section 451.602, Transportation Code, is amended to read as follows:

Sec. 451.602. AUTHORITIES COVERED BY SUBCHAPTER. Except as provided by Section 451.617, this subchapter applies only to an authority in which the principal municipality has a population of less than 1.3 million [~~850,000~~] and that was confirmed before July

1, 1985.

SECTION 265. Section 502.403(f), Transportation Code, is amended to read as follows:

(f) A municipality with a population greater than 1.3 million [~~850,000~~] shall deposit revenue from a fee imposed under this subsection to the credit of the child safety trust fund created under Section 106.001, Local Government Code. A municipality with a population less than 1.3 million [~~850,000~~] shall use revenue from a fee imposed under this section in accordance with Article 102.014(g), Code of Criminal Procedure.

SECTION 266. Section 541.201(1), Transportation Code, is amended to read as follows:

(1) "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Department of State Health Services;

(C) an emergency medical services vehicle:

(i) authorized under an emergency medical services provider license issued by the Department of State Health Services under Chapter 773, Health and Safety Code; and

(ii) operating under a contract with an emergency services district that requires the emergency medical services provider to respond to emergency calls with the vehicle;

(D) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(E) a county-owned or county-leased emergency management vehicle that has been designated or authorized by the commissioners court;

(F) a vehicle that has been designated by the department under Section 546.0065;

(G) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(H) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firefighters' [~~Firemen's~~] and Fire Marshals' Association of Texas;

(I) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs;

(J) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity; or

(K) a private vehicle of an employee or volunteer of a county emergency management division in a county with a population of more than 52,600 [~~46,500~~] and less than 55,000 [~~48,000~~] that is designated as an authorized emergency vehicle by the commissioners court of that county.

SECTION 267. Section 644.101(b), Transportation Code, is amended to read as follows:

(b) A police officer of any of the following municipalities is eligible to apply for certification under this section:

(1) a municipality with a population of 50,000 or more;

(2) a municipality with a population of 25,000 or more any part of which is located in a county with a population of 500,000 or more;

(3) a municipality with a population of less than 25,000:

(A) any part of which is located in a county with a population of 3.3 million; and

(B) that contains or is adjacent to an international port;

(4) a municipality with a population of at least 34,000 that is located in a county that borders two or more states;

(5) a municipality any part of which is located in a county bordering the United Mexican States;

(6) a municipality with a population of less than 5,000 that is located:

(A) adjacent to a bay connected to the Gulf of Mexico; and

(B) in a county adjacent to a county with a population greater than 3.3 million;

(7) a municipality that is located:

(A) within 25 miles of an international port; and

(B) in a county that does not contain a highway that is part of the national system of interstate and defense

highways and is adjacent to a county with a population greater than 3.3 million;

(8) a municipality with a population of less than 8,500 that:

(A) is the county seat; and

(B) contains a highway that is part of the national system of interstate and defense highways;

(9) a municipality located in a county with a population between 60,000 and 69,000 [~~66,000~~] adjacent to a bay connected to the Gulf of Mexico;

(10) a municipality with a population of more than 40,000 and less than 50,000 that is located in a county with a population of more than 285,000 and less than 300,000 that borders the Gulf of Mexico;

(11) a municipality with a population between 32,000 and 50,000 that is located entirely in a county that:

(A) has a population of less than 250,000;

(B) is adjacent to two counties that each have a population of more than 1.2 million; and

(C) contains two highways that are part of the national system of interstate and defense highways;

(12) a municipality with a population of more than 4,500 [~~3,000~~] and less than 10,000 that:

(A) contains a highway that is part of the national system of interstate and defense highways; and

(B) is located in a county with a population between 175,000 [~~150,000~~] and 190,000 [~~155,000~~];

(13) a municipality with a population of less than 75,000 that is located in three counties, at least one of which has a population greater than 3.3 million;

(14) a municipality with a population between 13,900 [~~14,000~~] and 17,000 that:

(A) contains three or more numbered United States highways; and

(B) is located in a county that is adjacent to a county with a population of more than 200,000; or

(15) a municipality with a population of less than 50,000 that is located in:

(A) a county that generated $20 million or more in tax revenue collected under Chapters 201 and 202, Tax Code, from oil and gas production during the preceding state fiscal year; or

(B) a county that is adjacent to two or more counties described by Paragraph (A).

SECTION 268. Section 644.202(b), Transportation Code, is amended to read as follows:

(b) A municipality with a population of more than 1.3 million [~~850,000~~] shall develop a route for commercial motor vehicles carrying hazardous materials on a road or highway in the municipality and submit the route to the Texas Department of Transportation for approval. If the Texas Department of Transportation determines that the route complies with all applicable federal and state regulations regarding the transportation of hazardous materials, the Texas Department of Transportation shall approve the route and notify the municipality

of the approved route.

SECTION 269. Section 701.001(c), Transportation Code, is amended to read as follows:

(c) The limitation on the number of deputies that may be employed under Subsections (a) and (b) does not apply to a county with a population of more than 2.5 [~~two~~] million.

SECTION 270. Section 35.037(a), Utilities Code, as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular Session, 2021, is amended to read as follows:

(a) This section only applies in a county with a population of more than 1.2 [~~one~~] million in which a national wildlife refuge is wholly or partly located.

SECTION 271. Section 36.354(g), Utilities Code, is amended to read as follows:

(g) For the purposes of this section, the term "military base" does not include a military base:

(1) that has been closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687) and its subsequent amendments;

(2) that is administered by an authority established by a municipality under Chapter 379B, Local Government Code;

(3) that is operated by or for the benefit of the Texas National Guard, as defined by Section 437.001, Government Code, unless the base is served by a municipally owned utility owned by a city with a population of 900,000 [~~650,000~~] or more; or

(4) for which a municipally owned utility has acquired the electric distribution system under 10 U.S.C. Section 2688.

SECTION 272. Section 37.102(a), Utilities Code, is amended to read as follows:

(a) If a municipal corporation offers retail electric utility service in a municipality having a population of more than 151,000 [~~145,000~~] that is located in a county having a population of more than 2.5 [~~2~~] million, the commission shall singly certificate areas in the municipality's boundaries in which more than one electric utility provides electric utility service.

SECTION 273. Section 13.1395(a)(1), Water Code, is amended to read as follows:

(1) "Affected utility" means a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer:

(A) in a county with a population of 3.3 million or more; or

(B) in a county with a population of 800,000 [~~550,000~~] or more adjacent to a county with a population of 3.3 million or more.

SECTION 274. Sections 13.245(c-5) and (c-6), Water Code, are amended to read as follows:

(c-5) Subsections (c-1), (c-2), (c-3), and (c-4) do not apply to:

(1) a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county;

(2) a county with a population of more than 30,000 and less than 36,000 [~~35,000~~] that borders the Red River; or

(3) a county with a population of more than 100,000 and

less than 200,000 that borders a county described by Subdivision (2).

(c-6) Subsections (c-1), (c-2), (c-3), and (c-4) do not apply to:

(1) a county with a population of 170,000 [~~130,000~~] or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or

(2) a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

SECTION 275. Sections 13.2451(b-2) and (b-3), Water Code, are amended to read as follows:

(b-2) Subsection (b) does not apply to an extension of extraterritorial jurisdiction in a county:

(1) with a population of more than 30,000 and less than 36,000 [~~35,000~~] that borders the Red River; or

(2) with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (1).

(b-3) Subsection (b) does not apply to an extension of extraterritorial jurisdiction in a county:

(1) with a population of 170,000 [~~130,000~~] or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or

(2) with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

SECTION 276. Sections 13.254(a-10) and (a-11), Water Code, are amended to read as follows:

(a-10) Subsection (a-8) does not apply to a county:

(1) with a population of more than 30,000 and less than 36,000 [~~35,000~~] that borders the Red River; or

(2) with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (1).

(a-11) Subsection (a-8) does not apply to a county:

(1) with a population of 170,000 [~~130,000~~] or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or

(2) with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

SECTION 277. Section 13.2541(b), Water Code, is amended to read as follows:

(b) As an alternative to decertification or expedited release under Section 13.254, the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity in the manner provided by this section and is entitled to that release if the landowner's property is located in a county with a population of at least 1.2 [~~one~~] million, a county adjacent to a county with a population of at least 1.2 [~~one~~] million, or a county with a population of more than 200,000 and less than 233,500 [~~220,000~~] that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 50,500 [~~45,500~~] and less than 52,000 [~~47,500~~].

SECTION 278. Section 26.179(o), Water Code, is amended to

read as follows:

(o) This section does not apply to an area within the extraterritorial jurisdiction of a municipality with a population greater than 1.3 million [~~900,000~~] that has extended to the extraterritorial jurisdiction of the municipality an ordinance whose purpose is to prevent the pollution of an aquifer which is the sole or principal drinking water source for the municipality.

SECTION 279. Section 26.3476(b), Water Code, is amended to read as follows:

(b) An underground storage tank system, at a minimum, shall incorporate a method for secondary containment if the system is located in:

(1) the outcrop of a major aquifer composed of limestone and associated carbonate rocks of Cretaceous age or older; and

(2) a county that:

(A) has a population of at least 1.2 [~~one~~] million and relies on groundwater for at least 75 percent of the county's water supply; or

(B) has a population of at least 75,000 and is adjacent to a county described by Paragraph (A).

SECTION 280. Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter

a well and any water produced or to be produced by a well that is located in a county that has a population of 15,500 [~~14,000~~] or less if the water is to be used solely to supply a municipality that has a population of 125,500 [~~121,000~~] or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 133,000 [~~115,000~~] or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

SECTION 281. Section 51.537(a), Water Code, is amended to read as follows:

(a) This section applies only to a municipality any portion of which is located in a county with a population of more than 1.2 [~~1~~] million and less than 1.5 million.

SECTION 282. Section 54.016(h), Water Code, is amended to read as follows:

(h) A city, other than a city with a population of more than one million that is located primarily in a county with a population of 2.5 [~~two~~] million or more, may provide in its written consent for the inclusion of land in a district that after annexation the city may set rates for water and/or sewer services for property that was within the territorial boundary of such district at the time of annexation, which rates may vary from those for other properties within the city for the purpose of wholly or partially compensating

the city for the assumption of obligation under this code providing that:

(1) such written consent contains a contract entered into by the city and the persons petitioning for creation of the district setting forth the time and/or the conditions of annexation by the city which annexation shall not occur prior to the installation of 90 percent of the facilities for which district bonds were authorized in the written consent; and that

(2) the contract sets forth the basis on which rates are to be charged for water and/or sewer services following annexation and the length of time they may vary from those rates charged elsewhere in the city; and that

(3) the contract may set forth the time, conditions, or lands to be annexed by the district; and that

(4)(A) Each purchaser of land within a district which has entered into a contract with a city concerning water and/or sewer rates as set forth herein shall be furnished by the seller at or prior to the final closing of the sale and purchase with a separate written notice, executed and acknowledged by the seller, which shall contain the following information:

(i) the basis on which the monthly water and/or sewer rate is to be charged under the contract stated as a percentage of the water and/or sewer rates of the city;

(ii) the length of time such rates will be in effect;

(iii) the time and/or conditions of annexation by the city implementing such rates.

The provisions of Sections 49.452(g)-(p) and (s), Water Code, are herein incorporated by reference thereto, and are applicable to the separate written notice required by Section 54.016(h)(4).

A suit for damages under the provisions of these referenced sections must be brought within 90 days after the purchaser receives his or her first water and/or sewer service charge following annexation, or the purchaser loses his or her right to seek damages under this referenced section.

(B) The governing board of any district covered by the provisions of this subsection shall file with the county clerk in each of the counties in which all or part of the district is located a duly affirmed and acknowledged statement which includes the information required in Section 54.016(h)(4)(A) and a complete and accurate map or plat showing the boundaries of the district.

The provisions of Sections 49.455(c)-(j), Water Code, are herein incorporated by reference thereto.

SECTION 283. Section 54.813(a), Water Code, is amended to read as follows:

(a) This section applies only to a municipality any portion of which is located in a county with a population of more than 1.2 [~~1~~] million and less than 1.5 million.

SECTION 284. Section 1, Chapter 511 (H.B. 589), Acts of the 58th Legislature, Regular Session, 1963 (Article 2676a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. From and after the effective date of this act in any county in this state having a population of not less than 372,000 [~~312,000~~] and not more than 400,000 [~~330,000~~], the general

management and control of the public free schools and high schools in each county unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one of whom shall be elected from the county at large by the qualified voters of the county and one from each commissioners precinct by the qualified voters of each commissioners precinct, who shall hold office for a term of two (2) years. The time for such election shall be the first Saturday in April of each year; the order for the election of county school trustees to be made by the County Judge at least thirty (30) days prior to the date of said election, and which order shall designate as voting places or places at which votes are cast for the district trustees of said common and independent school districts, respectively. The election officers appointed to hold the election for district trustees in each of said school districts, respectively, shall hold this election for county school trustees.

SECTION 285. Section 1, Chapter 233 (H.B. 459), Acts of the 59th Legislature, Regular Session, 1965 (Article 2676b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. This Act applies to a county-wide school district in a county having a population of more than 4,700 [~~5,250~~] and less than 4,900 [~~5,350~~]. The Board of Trustees may order that the trustees of the district shall run at large in the county. If the Board orders that its members shall run at large, each position shall be filled by election from the county at large upon expiration of the current term of office.

SECTION 286. Section 1(b), Chapter 63 (S.B. 100), Acts of

the 57th Legislature, 3rd Called Session, 1962 (Article 2688h, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) From and after May 1, 1962, the office of the county board of school trustees and the office of county superintendent shall cease to exist in any county in this State having a population of not less than 315,000 [~~285,000~~] and not more than 351,000 [~~300,000~~] which has no common school district and whose county ad valorem evaluation is in excess of Two Hundred Fifty Million Dollars ($250,000,000); provided, however, that the county superintendents in such counties who have been heretofore elected or appointed to the office of county superintendent shall serve until the expiration of the term for which they were elected or appointed. The duties now performed by the board of school trustees and county superintendents in such counties shall be performed by the County Judges of such counties.

SECTION 287. Sections 5 and 6, Chapter 706 (H.B. 1015), Acts of the 59th Legislature, Regular Session, 1965 (Article 2688i-1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 5. The provisions of this Act shall not apply to counties having a population of not less than 4,700 [~~5,250~~] and not more than 4,900 [~~5,350~~] and to counties having a population of not less than 57,000 [~~54,000~~] and not more than 57,900 [~~54,500~~].

Sec. 6. No county having a population of more than 28,450 [~~30,000~~] and less than 29,000 or a population of more than 31,045 and less than 31,247 [~~32,000~~] shall have the offices of county school superintendent, ex officio county school superintendent, and county board of education.

All duties and functions, except as hereafter provided, that are otherwise required by law of the office of county school superintendent or ex officio county school superintendent governed by this section shall be performed by the superintendents of the independent and rural high school districts, and all duties that may otherwise be required by law of the county board of education governed by this section shall be performed by the elected Board of Trustees of such independent and rural high school districts, except that the County Judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers. The Commissioners Court of such county shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of county school districts and all authorized appeals from the independent school Board of Trustees shall be made directly to the State Board of Education or to the courts as provided by law.

All school records of the original independent and/or common school district governed by this section, shall be transferred to the control and custody of the independent school district office, located at the county seat, save and except the original financial records which shall be retained by the county treasurer, and thereafter the County Judge shall be required to make no records or reports but said reports shall be made by the superintendent of such independent or rural school district; that as soon as practicable after the effective date of this Act, all remaining State funds in the hands of the county board of education shall be transferred by the county treasurer and the County Judge to the independent and

rural high school districts in proportion to the number of scholastics enrolled in such districts.

SECTION 288. Section 31A(b), Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) This section applies only to a municipality:

(1) with a population of less than 200,000;

(2) that is located in a county with a population of not less than 2.5 [~~2~~] million and not more than 4 million;

(3) that has a regularly organized fire department for which a retirement system and fund have been established under Section 4 of this Act; and

(4) that before January 1, 2017, has one or more departments participating in the Texas Municipal Retirement System.

SECTION 289. Section 1.01, Chapter 183 (S.B. 598), Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.01. APPLICABILITY. This Act applies only to a municipality having a population of more than 950,000 [~~750,000~~] and less than 1,050,000 [~~850,000~~].

SECTION 290. Section 1, Chapter 103 (S.B. 622), Acts of the 62nd Legislature, Regular Session, 1971 (Article 6243f-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. No member of a fire department in any city or town in this state having a population of not less than 900,000 [~~700,000~~] nor more than 950,000 [~~750,000~~] shall be involuntarily retired

prior to reaching the mandatory retirement age set for such cities' employees unless he is physically unable to perform his duties. In the event he is physically unable to perform his duties, he shall be allowed to use all of his accumulated sick leave, before retirement.

SECTION 291. Section 1(a), Chapter 451 (S.B. 737), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A retirement system is established by this Act for employees of each municipality having a population of more than 950,000 [~~760,000~~] and less than 1,050,000 [~~860,000~~].

SECTION 292. Section 1.01, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.01. APPLICABILITY AND DEFINITIONS. This Act applies only to a municipality having a population of more than 950,000 [~~750,000~~] and less than 1,050,000 [~~850,000~~].

SECTION 293. Section 1.03, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.03. APPLICABILITY. This Act applies to paid fire and police departments of a municipality with a population between 1.4 [~~1.3~~] million and 1.7 [~~1.5~~] million.

SECTION 294. Section 1.03, Chapter 1332 (S.B. 1568), Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.03. APPLICABILITY. This Act applies to a paid fire

and police department of a municipality with a population of 1.4 [~~1.3~~] million or more but less than 1.7 [~~1.5~~] million.

SECTION 295. Section 1, Chapter 809 (H.B. 1687), Acts of the 62nd Legislature, Regular Session, 1971 (Article 6812b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. The Commissioners Court of any county having a population of not less than 620,000 [~~425,000~~] nor more than 700,000 [~~500,000~~] may appoint a County Engineer, but the selection shall be controlled by considerations of skill and ability for the task. The engineer may be selected at any regular meeting of the commissioners court, or at any special meeting called for that purpose. The engineer selected shall be a Registered Professional Engineer in the State of Texas. The engineer shall hold his office for a period of two years, his term of office expiring concurrently with the terms of other county officers, and he may be removed at the pleasure of the commissioners court. The engineer shall receive a salary to be fixed by the commissioners court not to exceed the amount of the salary paid to the highest county official, to be paid out of the Road and Bridge Fund. The engineer, before entering upon the discharge of his duties, shall take the oath of office prescribed by law, and shall execute a bond in the sum of $15,000 with a good and sufficient surety or sureties thereon, payable to the county judge of the county and successors in office in trust, for the use and the benefit of the Road and Bridge Fund, of the county to be approved by the court, conditioned that such engineer will faithfully and efficiently discharge and perform all of the duties required of him by law and by the orders of said

commissioners court and shall faithfully and honestly and in due time account for all of the money, property and materials placed in his custody.

SECTION 296. (a) This Act is not intended to revive a law that was impliedly repealed by a law enacted by the 87th Legislature or a previous legislature.

(b) To the extent that a law enacted by the 88th Legislature, Regular Session, 2023, conflicts with this Act, the other law prevails, regardless of the relative dates of enactment or the relative effective dates.

SECTION 297. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 4559 was passed by the House on April 27, 2023, by the following vote: Yeas 145, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4559 was passed by the Senate on May 17, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

AN ACT

relating to requirements for and charges for service from public drinking water supply systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 341.0315, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Each public drinking water supply system shall provide an adequate and safe drinking water supply. The supply must:

(1) meet the requirements of Section 341.031 and commission rules; and

(2) provide a quantity of water or capacity of water sufficient to serve the number of connections served by the public drinking water supply system.

(c-1) Notwithstanding any other law, the commission by rule shall establish connection equivalency values for each meter size used to serve a recreational vehicle park, as defined by Section 13.087, Water Code, for use in determining the number of connections served by a public drinking water supply system that provides service through meters. When determining the number of connections, the commission may only consider service for which a meter has been installed that conforms with industry standards. The rules must:

(1) establish that eight recreational vehicle or cabin

sites at a recreational vehicle park, whether occupied or not, are equivalent to one residential metered connection; and

(2) provide a variance from a connection equivalency value established under this subsection for a public drinking water supply system if actual system usage is more than 10 percent below the equivalency value.

SECTION 2. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.152 to read as follows:

Sec. 13.152. BILLING FOR RECREATIONAL VEHICLE PARKS. (a) In this section, "recreational vehicle park" has the meaning assigned by Section 13.087.

(b) A retail public utility, other than a municipally owned utility described by Section 13.087, providing water or sewer service to a recreational vehicle park:

(1) shall ensure that billing for the service is based on actual water usage recorded by the retail public utility; and

(2) may not impose a surcharge based on the number of recreational vehicle or cabin sites in the recreational vehicle park.

SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 594 passed the Senate on April 12, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 17, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 594 passed the House, with amendment, on May 12, 2023, by the following vote: Yeas 127, Nays 13, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§290.38, 290.45 and 290.46.

Amended §290.45 is adopted without changes to the proposed text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6165) and, therefore, will not be republished. Amended §290.38 and §290.46 are adopted with changes, to the proposed text in response to comment and, therefore, will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

During the 88th Texas Legislature (2023), House Bill (HB) 3810, HB 4559, and Senate Bill (SB) 594 passed and require amendments to 30 Texas Administrative Code (TAC) Chapter 290 to implement the enacted legislation.

This rulemaking reflects changes to Texas Health and Safety Code (THSC), §341.033 enacted in HB 3810, requiring nonindustrial water systems to report to the commission an unplanned condition that has caused the system to issue drinking water advisories or a boil water notice. The adopted rules provide a definition of “nonindustrial water system” and “unplanned condition” and address notification requirements.

This rulemaking reflects changes to Texas Water Code (TWC), §13.1395 enacted in HB 4559, which amended the definition of “affected utility” by changing county population. The amended population maintains the applicability of the counties required to have an Emergency Preparedness Plan (EPP) under TWC, §13.1395 or TWC, §13.1394.

This rulemaking reflects changes to THSC, §341.0315 enacted in SB 594, which requires the commission to establish equivalency values for each meter size used to serve a 'recreational vehicle park', as defined by TWC, §13.087, to determine connection count. The adopted rules establish the equivalency value and establish how public water systems calculate alternatives to connection count for recreational vehicle parks that are metered customers of a public water system and have actual water usage more than 10% below the equivalency value.

Section by Section Discussion

§290.38, Definitions

The commission adopts the amendment to §290.38(3)(B) defining "affected utility," by changing the population from "550,000" to "800,000" in accordance with TWC, §13.1395 as amended by HB 4559. The amended population maintains the applicability of the counties required to have an EPP under TWC, §13.1395 or TWC, §13.1394. Specifically, the amendment maintains TWC, §13.1395 applicability to Fort Bend and Harris counties.

The commission adopts the amendment to §290.38(18), defining "connection," by adding a connection equivalency value as well as the alternative recreational vehicle park connection equivalency for recreational vehicle parks that are retail customers of public water systems. The adopted definition establishes that the number of connections for these recreational vehicle parks is calculated as the number of recreational vehicle or cabin sites divided by eight in accordance with THSC, §341.0315 as amended by SB 594.

The commission adopts the addition of §290.38(76), which defines "Recreational Vehicle" in response to public comment.

§290.45, Minimum Water System Capacity Requirements

The commission adopts new §290.45(j) to establish the process by which a public water system can calculate an alternative recreational vehicle park connection equivalency for recreational vehicle parks that are retail customers of a public water system, to coincide with the amended definition of "connection" in §290.38(18)(B) in accordance with THSC, §341.0315 as amended by SB 594. A table is provided with the Alternative Recreational Vehicle Park Connection Equivalency utilizing significant figures; the calculations are based on source capacity per connection in accordance with TAC §290.45(b) and (c) as well as the definition of maximum daily demand in §290.38.

§290.46, Minimum Acceptable Operating Practices for Public Water Systems

In accordance with THSC, §341.033 as amended by HB 3810, the commission adopts the amendment to §290.46(w) and adds new §290.46(w)(6) to require nonindustrial public water systems to provide the executive director with immediate notification of unplanned conditions resulting in water system outages that result in drinking water advisories or boil water notices and to define "nonindustrial water system" and "unplanned condition" within §290.46(w)(6) to clarify public water system types and situations, respectively.

Final Regulatory Impact Determination

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to §2001.0225. A "Major environmental rule" means a rule with a specific intent to protect the

environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

First, the rulemaking does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking is to address unplanned conditions at a nonindustrial public water system that cause an outage or issuance of drinking water advisories or boil water notices; to revise the county population in the definition of affected utility in accordance with TWC, §13.1395(a)(1), which applies to those affected utilities which need to submit emergency preparedness plans to the commission for review and approval; and to meet the legislative requirement for the commission to establish connection equivalency values for each meter size used to serve recreational vehicle parks for use in determining the number of connections served by a public water system.

Second, the rulemaking does not meet the statutory definition of a "Major environmental rule" because the rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the amendments will not adversely affect in a material way the economy, a sector of the economy, competition, or jobs.

Finally, the rulemaking does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code §2001.0225(a). Section §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of the preceding four applicability requirements because this rulemaking: does not exceed any standard set by federal law for public water systems; does not exceed any express requirement of state law; does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government; and is not based solely under the general powers of the agency, but under THSC, §341.031 and §341.0315, which allows the commission to adopt and enforce rules related to public drinking water, as well under the general powers of the commission.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission evaluated this rulemaking and performed a preliminary assessment of whether these rules constitute a taking under Texas Government Code, Chapter §2007.

The commission adopts these rules to implement House Bills 3810, 4559 and Senate Bill 594, 88th Texas Legislative Session (2023). HB 3810 amended THSC, §341.033 by requiring nonindustrial public water systems to notify the commission when an unplanned condition caused a public water supply outage or issuance of drinking water advisories or a boil water notice. HB 4559 amended TWC, §13.1394(a)(1) by changing the county population in the definition of "affected utility." An affected utility is required to file an emergency preparedness plan with the executive director for review and approval. SB 594 amended THSC, §341.0315, which requires the commission to adopt rules establishing connection equivalency values for each retail meter size used to serve a recreational vehicle park in calculating connection counts.

The commission's analysis indicates that Texas Government Code, Chapter §2007, does not apply to these rules based upon exceptions to applicability in Texas Government Code, §2007.003(b). The rulemaking is an action that is taken to fulfill obligations mandated under state law for all of the adopted rules. The rulemaking related to emergency preparedness plans is also an action taken in response to a real and substantial threat to public health and safety, that is designed to significantly advance the public health and safety purpose, and that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(4) and (13).

First, the rulemaking is an action taken to fulfill obligations under state law. The law requires actions by the commission and the regulated community when unplanned conditions at a nonindustrial public water system result in a system outage or issuance of drinking water advisories or boil water notices under THSC, §341.033; the change to the county population in the definition of "affected utility" maintains those affected utilities requirements to submit

emergency preparedness plans to the commission under TWC, §13.1395(a)(1); and state law now requires the commission to promulgate rules to establish connection equivalency values for each meter size used to serve a recreational vehicle park for purposes of public water system connection counts under THSC, §341.0315. Texas Government Code, §2007.003(b)(4).

Second, the adopted rules will ensure the emergency preparedness plans are submitted by affected utilities in appropriate counties designated by the legislature. The adopted rules will significantly advance the public health and safety purpose; and do not impose a greater burden than is necessary to achieve the public health and safety purpose. These rules advance the public health and safety by ensuring appropriate governmental regulation and do so in a way that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(13).

Further, the commission has determined that promulgation and enforcement of these rules will be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rule because the rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there will be no reduction in property value as a result of these rules. The rules require compliance with the actions required by nonindustrial public water systems when unplanned conditions result in a system outage or issuance of drinking water advisories or boil water notices; compliance regarding submission by an affected utility to the commission of its emergency preparedness plan, which is meant to ensure public health and safety; and state law requires that connection equivalency values be established for each retail meter size used to serve a recreational vehicle park. Therefore, the rules will not constitute a taking under Texas Government Code, Chapter

§2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rulemaking and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the adopted rulemaking is not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the Coastal Management Program.

Public Comment

The commission held a public hearing on Thursday, September 12, 2024. No oral comments were received at the public hearing. The comment period closed on Tuesday, September 17, 2024. The commission received timely comments on the proposed Chapter 290 rules from Texas Rural Water Association (TRWA).

Response to Comments

Comment 1

TRWA expressed appreciation for being a partner with the commission in the rulemaking process and offered changes to the proposed rule language. TRWA indicated that SB 594 and HB 3810 had been confusing for some public water systems and TRWA believed some of the

language proposing to implement these bills was ambiguous.

Response 1

The Commission acknowledges this comment.

Comment 2

TRWA commented that §290.45(j) did not define "cabin," as used in SB 594 and asked whether "cabin" includes "tiny homes." TRWA provided a suggested definition of "cabin". TRWA commented that the proposed rules also do not define "recreational vehicle (RV)" or "recreational vehicle park (RV Park)," TRWA suggested that the commission adopt the same definitions of RV and RV park as used by the Texas Public Utility Commission.

Response 2

The commission does not agree that §290.45(j) needs to include the definition for "recreational vehicle park" (RV Park) or "cabin" as suggested by TRWA because proposed §290.38(18)(B) references TWC §13.087(a)(3), which defines RV Park, therefore the proposed rules are consistent with statutory definitions. The commission agrees that defining "recreational vehicle" would provide regulatory clarity to the rule and has added a new definition, §290.38(76), based on TWC §13.087(a)(2). The commission does not believe that a definition of "cabin" is necessary because TCEQ rules referring to transient accommodation units do not include a comprehensive list of accommodation units nor do they define specific accommodation units, such as hotel rooms or campsites. Cabins should be considered as "similar accommodations" to the transient accommodation units listed in 30 TAC §290.45(c). If the regulated community continues to express confusion regarding

cabins and tiny homes as described by TRWA, the commission can clarify the issue through regulatory guidance.

Comment 3

The TRWA commented that the proposed changes to §290.46(w)(6) appear broader than what is required by HB 3810. TRWA suggests the commission revise the proposed rule by adding definitions for "do-not-use advisory" and "do-not-consume advisory." TRWA suggests that the reference to §290.47(e) in the proposed rule be replaced with reference to §290.46(q) because §290.47(e) addresses only boil water notices while §290.46(q) addresses special precautions.

Response 3

The commission does not agree that proposed §290.46(w)(6) is broader than HB 3810, however, to improve clarity the commission is revising 290.46(w) to include "do-not-use advisory" and "do-not-consume advisory" to be consistent with the statute. The commission does not agree that the rule should reference §290.46(q) in place of §290.47(e), because the flow diagram referenced by §290.47(e) specifically addresses outages and boil water notices associated with a loss of pressure. Proposed §290.46(w)(6) provides nonindustrial public water systems a framework to determine when they need to submit immediate notification and adequately implements HB 3810.

SUBCHAPTER D: RULES AND REGULATIONS FOR PUBLIC WATER SYSTEMS

§§290.38, 290.45, 290.46

Statutory Authority

The rulemaking is adopted under Texas Water Code (TWC) §5.013, which establishes the general jurisdiction of the commission; TWC §5.102, which establishes the commission's general authority to perform any act necessary to carry out its jurisdiction; TWC §5.103 and TWC §5.105, which establish the commission's authority to adopt any rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC) §341.031, which requires drinking water supplies to meet standards established by the commission; and THSC §341.0315, which requires public drinking water systems to comply with commission standards established to ensure the supply of safe drinking water.

The rulemaking adoption implements legislation enacted by the 88th Texas Legislature in 2023: THSC, §341.033 in House Bill (HB) 3810; TWC, §13.1395(a)(1) in HB 4559; and THSC, §341.0315 in Senate Bill 594.

§290.38. Definitions.

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. If a word or term used in this chapter is not contained in the following list, its definition shall be as shown in 40 Code of Federal Regulations (CFR) §141.2. Other technical terms used shall have the meanings or definitions listed in the latest edition of The Water Dictionary: A Comprehensive Reference of Water Terminology, prepared by the American Water Works Association.

(1) Accredited laboratory - A laboratory accredited by the executive director to analyze drinking water samples to determine compliance with maximum contaminant levels, action levels, and microbial contaminants in accordance with §290.119 of this title (relating to Analytical Procedures).

(2) Adverse Weather Conditions - Any significant temperature, wind velocity, accumulation of precipitation including drought, or other weather pattern that may trigger the issuance of a national weather service watch, advisory, or warning.

(3) Affected utility –

(A) A retail public utility (§291.3 of this title (relating to Definitions of Terms)), exempt utility (§291.103 of this title (relating to Certificates Not Required)), or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility as defined in TWC §13.1394; or

(B) A retail public utility (§291.3 of this title (relating to Definitions of Terms)), exempt utility (§291.103 of this title (relating to Certificates Not Required)), or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility, as defined in TWC §13.1395, in a county with a population of:

(i) 3.3 million or more; or

(ii) 800,000 [550,000]or more adjacent to a county with a population of 3.3 million or more.

(4) Air gap--The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, fixture, receptor, sink, or other assembly and the flood level rim of the receptacle. The vertical, physical separation must be at least twice the diameter of the water supply outlet, but never less than 1.0 inch.

(5) American National Standards Institute (ANSI) standards--The standards of the American National Standards Institute, Inc.

(6) American Society of Mechanical Engineers (ASME) standards--The standards of the ASME.

(7) American Water Works Association (AWWA) standards--The latest edition of the applicable standards as approved and published by the AWWA.

(8) Approved laboratory--A laboratory approved by the executive director to analyze water samples to determine their compliance with treatment technique requirements and maximum or minimum allowable constituent levels in accordance with §290.119 of this title (relating to Analytical Procedures).

(9) ASTM International standards--The standards of ASTM International (formerly known as the American Society for Testing and Materials).

(10) Auxiliary power--Either mechanical power or electric generators which can enable the system to provide water under pressure to the distribution system in the event of a local power failure. With the approval of the executive director, dual primary electric service may be considered as auxiliary power in areas which are not subject to large scale power outages due to natural disasters.

(11) Bag filter--Pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside.

(12) Baseline performance--In reference to a membrane treatment facility, the detailed assessment of observed operational conditions at the time the membrane facility is placed in service for the purpose of tracking changes over time and determining when maintenance or service is required. Examples of parameters where baseline performance data is collected include: net driving pressure, normalized permeate flow, salt rejection, and salt passage.

(13) Cartridge filter--Pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically

constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

(14) Certified laboratory--A laboratory certified by the commission to analyze water samples to determine their compliance with maximum allowable constituent levels. After June 30, 2008, laboratories must be accredited, not certified, in order to perform sample analyses previously performed by certified laboratories.

(15) Challenge test--A study conducted to determine the removal efficiency (log removal value) of a device for a particular organism, particulate, or surrogate.

(16) Chemical disinfectant--Any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to the water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

(17) Community water system--A public water system which has a potential to serve at least 15 residential service connections on a year-round basis or serves at least 25 residents on a year-round basis.

(18) Connection--A single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system. As an example, the number of service connections in an apartment complex would be equal to the number of individual apartment units. When enough data is not available to accurately determine the number of connections to be served or being served, the population served divided by three will be used as

the number of connections for calculating system capacity requirements. Conversely, if only the number of connections is known, the connection total multiplied by three will be the number used for population served. For the purposes of this definition: [definition,]

(A) a dwelling or business which is connected to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection if:

(i) [(A)] the water is used exclusively for purposes other than those defined as human consumption (see human consumption);

(ii) [(B)] the executive director determines that alternative water to achieve the equivalent level of public health protection provided by the drinking water standards is provided for residential or similar human consumption, including, but not limited to, drinking and cooking; or

(iii) [(C)] the executive director determines that the water provided for residential or similar human consumption is centrally treated or is treated at the point of entry by a provider, a pass through entity, or the user to achieve the equivalent level of protection provided by the drinking water standards.

(B) For a recreational vehicle park, as defined by Texas Water Code, §13.087(a)(3), that is a retail customer of a public water system, the number of connections shall be calculated as:

(i) the number of recreational vehicle sites or cabin sites, whether occupied or not, divided by eight; or

(ii) the number of recreational vehicle sites or cabin sites, whether occupied or not, divided by the alternative recreational vehicle park connection equivalency specified in §290.45(j) of this title (relating to Minimum Water System Capacity Requirements).

(19) Contamination--The presence of any foreign substance (organic, inorganic, radiological, or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water.

(20) Cross-connection--A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

(21) Direct integrity test--A physical test applied to a membrane unit in order to identify and isolate integrity breaches/leaks that could result in contamination of the filtrate.

(22) Disinfectant--A chemical or a treatment which is intended to kill or inactivate pathogenic microorganisms in water.

(23) Disinfection--A process which inactivates pathogenic organisms in the water by chemical oxidants or equivalent agents.

(24) Distribution system--A system of pipes that conveys potable water from a treatment plant to the consumers. The term includes pump stations, ground and elevated storage tanks, potable water mains, and potable water service lines and all associated valves, fittings, and meters, but excludes potable water customer service lines.

(25) Drinking water--All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "drinking water" shall also include all water supplied for human consumption or used by any institution catering to the public.

(26) Drinking water standards--The commission rules covering drinking water standards in Subchapter F of this chapter (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).

(27) Elevated storage capacity--That portion of water which can be stored at least 80 feet above the highest service connection in the pressure plane served by the storage tank.

(28) Emergency operations--The operation of an affected utility during an extended power outage at a minimum water pressure of 20 pounds per square inch (psi) or a pressure approved by the executive director as required under TWC §13.1394 and 35 psi as required under TWC §13.1395.

(29) Emergency power--Either mechanical power or electric generators which can enable the system to provide water under pressure to the distribution system in the event of a local power failure. With the approval of the executive director, dual primary electric service may be considered as emergency power in areas which are not subject to large scale power outages due to natural disasters.

(30) Extended power outage--A power outage lasting for more than 24 hours.

(31) Filtrate--The water produced from a filtration process; typically used to describe the water produced by filter processes such as membranes.

(32) Flux--The throughput of a pressure-driven membrane filtration system expressed as flow per unit of membrane area. For example, gallons per square foot per day or liters per hour per square meter.

(33) Grantee--For purposes of this chapter, any person receiving an ownership interest in a public water system, whether by sale, transfer, descent, probate, or otherwise.

(34) Grantor--For purposes of this chapter, any person who conveys an ownership interest in a public water system, whether by sale, transfer, descent, probate, or otherwise.

(35) Groundwater--Any water that is located beneath the surface of the ground and is not under the direct influence of surface water.

(36) Groundwater under the direct influence of surface water--Any water beneath the surface of the ground with:

(A) significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*;

(B) significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions; or

(C) site-specific characteristics including measurements of water quality parameters, well construction details, existing geological attributes, and other features that are similar to groundwater sources that have been identified by the executive director as being under the direct influence of surface water.

(37) Health hazard--A cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.

(38) Human consumption--Uses by humans in which water can be ingested into or absorbed by the human body. Examples of these uses include, but are not limited to

drinking, cooking, brushing teeth, bathing, washing hands, washing dishes, and preparing foods.

(39) Indirect integrity monitoring--The monitoring of some aspect of filtrate water quality, such as turbidity, that is indicative of the removal of particulate matter.

(40) Innovative/alternate treatment--Any treatment process that does not have specific design requirements in §290.42(a) - (f) of this title (relating to Water Treatment).

(41) Interconnection--A physical connection between two public water supply systems.

(42) International Fire Code (IFC)--The standards of the International Code Council.

(43) Intruder-resistant fence--A fence six feet or greater in height, constructed of wood, concrete, masonry, or metal with three strands of barbed wire extending outward from the top of the fence at a 45 degree angle with the smooth side of the fence on the outside wall. In lieu of the barbed wire, the fence must be eight feet in height. The fence must be in good repair and close enough to surface grade to prevent intruder passage.

(44) L/d ratio--The dimensionless value that is obtained by dividing the length (depth) of a granular media filter bed by the weighted effective diameter "d" of the filter media.

The weighted effective diameter of the media is calculated based on the percentage of the total bed depth contributed by each media layer.

(45) Licensed professional engineer--An engineer who maintains a current license through the Texas Board of Professional Engineers in accordance with its requirements for professional practice.

(46) Log removal value (LRV)--Removal efficiency for a target organism, particulate, or surrogate expressed as log10 (i.e., log10 (feed concentration) - log10 (filtrate concentration)).

(47) Maximum contaminant level (MCL)--The MCL for a specific contaminant is defined in the section relating to that contaminant.

(48) Maximum daily demand--In the absence of verified historical data or in cases where a public water system has imposed mandatory water use restrictions within the past 36 months, maximum daily demand means 2.4 times the average daily demand of the system.

(49) Membrane filtration--A pressure or vacuum driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test; includes the following common membrane classifications microfiltration (MF), ultrafiltration

(UF), nanofiltration (NF), and reverse osmosis (RO), as well as any "membrane cartridge filtration" (MCF) device that satisfies this definition.

(50) Membrane LRVC-Test --The number that reflects the removal efficiency of the membrane filtration process demonstrated during challenge testing. The value is based on the entire set of log removal values (LRVs) obtained during challenge testing, with one representative LRV established per module tested.

(51) Membrane module--The smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(52) Membrane sensitivity--The maximum log removal value that can be reliably verified by a direct integrity test.

(53) Membrane unit--A group of membrane modules that share common valving, which allows the unit to be isolated from the rest of the system for the purpose of integrity testing or other maintenance.

(54) Milligrams per liter (mg/L)--A measure of concentration, equivalent to and replacing parts per million in the case of dilute solutions.

(55) Monthly reports of water works operations--The daily record of data relating to the operation of the system facilities compiled in a monthly report.

(56) National Fire Protection Association (NFPA) standards--The standards of the NFPA.

(57) NSF International--The organization and the standards, certifications, and listings developed by NSF International (formerly known as the National Sanitation Foundation) related to drinking water.

(58) Noncommunity water system--Any public water system which is not a community system.

(59) Nonhealth hazard--A cross-connection, potential contamination hazard, or other situation involving any substance that generally will not be a health hazard, but will constitute a nuisance, or be aesthetically objectionable, if introduced into the public water supply.

(60) Nontransient, noncommunity water system--A public water system that is not a community water system and regularly serves at least 25 of the same persons at least six months out of the year.

(61) Pass--In reference to a reverse osmosis or nanofiltration membrane system, stages of pressure vessels in series in which the permeate from one stage is further processed in a following stage.

(62) Peak hourly demand--In the absence of verified historical data, peak hourly demand means 1.25 times the maximum daily demand (prorated to an hourly rate) if a public water supply meets the commission's minimum requirements for elevated storage capacity and 1.85 times the maximum daily demand (prorated to an hourly rate) if the system uses pressure tanks or fails to meet the commission's minimum elevated storage capacity requirement.

(63) Plumbing inspector--Any person employed by a political subdivision for the purpose of inspecting plumbing work and installations in connection with health and safety laws and ordinances, who has no financial or advisory interest in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Texas State Board of Plumbing Examiners.

(64) Plumbing ordinance--A set of rules governing plumbing practices which is at least as stringent and comprehensive as one of the following nationally recognized codes:

(A) the International Plumbing Code; or

(B) the Uniform Plumbing Code.

(65) Potable water customer service line--The sections of potable water pipe between the customer's meter and the customer's point of use.

(66) Potable water main--A pipe or enclosed constructed conveyance operated by a public water system which is used for the transmission or distribution of drinking water to a potable water service line.

(67) Potable water service line--The section of pipe between the potable water main and the customer's side of the water meter. In cases where no customer water meter exists, it is the section of pipe that is under the ownership and control of the public water system.

(68) Potential contamination hazard--A condition which, by its location, piping or configuration, has a reasonable probability of being used incorrectly, through carelessness, ignorance, or negligence, to create or cause to be created a backflow condition by which contamination can be introduced into the water supply. Examples of potential contamination hazards are:

(A) bypass arrangements;

(B) jumper connections;

(C) removable sections or spools; and

(D) swivel or changeover assemblies.

(69) Process control duties--Activities that directly affect the potability of public drinking water, including: making decisions regarding the day-to-day operations and maintenance of public water system production and distribution; maintaining system pressures; determining the adequacy of disinfection and disinfection procedures; taking routine microbiological samples; taking chlorine residuals and microbiological samples after repairs or installation of lines or appurtenances; and operating chemical feed systems, filtration, disinfection, or pressure maintenance equipment; or performing other duties approved by the executive director.

(70) psi--Pounds per square inch.

(71) Public drinking water program--Agency staff designated by the executive director to administer the Safe Drinking Water Act and state statutes related to the regulation of public drinking water. Any report required to be submitted in this chapter to the executive director must be submitted to the Texas Commission on Environmental Quality, Water Supply Division, MC 155, P.O. Box 13087, Austin, Texas 78711-3087.

(72) Public health engineering practices--Requirements in this chapter or guidelines promulgated by the executive director.

(73) Public water system--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. This term includes:

any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(74) Quality Control Release Value (QCRV)--A minimum quality standard of a non-destructive performance test established by the manufacturer for membrane module production that ensures that the module will attain the targeted log removal value demonstrated during challenge testing.

(75) Reactor Validation Testing--A process by which a full-scale ultraviolet (UV) reactor's disinfection performance is determined relative to operating parameters that can be monitored. These parameters include flow rate, UV intensity as measured by a UV sensor and the UV lamp status.

<u>(76) Recreational Vehicle--A recreational vehicle as defined in Tex. Water Code §13.087(a)(2), which is incorporated by reference as if fully set forth.</u>

(77) [(76)] Resolution--The size of the smallest integrity breach that contributes to a response from a direct integrity test in membranes used to treat surface water or groundwater under the direct influence of surface water.

(78) [(77)] Sanitary control easement--A legally binding document securing all land, within 150 feet of a public water supply well location, from pollution hazards. This document must fully describe the location of the well and surrounding lands and must be filed in the county records to be legally binding. For an example, see commission Form 20698.

(79) [(78)] Sanitary survey--An onsite review of a public water system's adequacy for producing and distributing safe drinking water by evaluating the following elements: water source; treatment; distribution system; finished water storage; pump, pump facilities, and controls; monitoring, reporting, and data verification; system management, operation and maintenance; and operator compliance.

(80) [(79)} Sensitivity--The maximum log removal value (LRV) that can be reliably verified by a direct integrity test in membranes used to treat surface water or groundwater under the direct influence of surface water; also applies to some continuous indirect integrity monitoring methods.

(81) [(80)] Service line--A pipe connecting the utility service provider's main and the water meter, or for wastewater, connecting the main and the point at which the customer's service line is connected, generally at the customer's property line.

(82) [(81)] Service pump--Any pump that takes treated water from storage and discharges to the distribution system.

(83) [(82)] Significant deficiency--Significant deficiencies cause, or have the potential to cause, the introduction of contamination into water delivered to customers. This may include defects in design, operation, or maintenance of the source, treatment, storage, or distribution systems.

(84) [(83)] Stage--In reference to a reverse osmosis or nanofiltration membrane system, a set of pressure vessels installed in parallel.

(85) [(84)] System--Public water system as defined in this section unless otherwise modified (i.e., distribution system).

(86) [(85)] Transfer pump--Any pump which conveys water from one point to another within the treatment process or which conveys water to storage facilities prior to distribution.

(87) [(86)] Transient, noncommunity water system--A public water system that is not a community water system and serves at least 25 persons at least 60 days out of the year, yet by its characteristics, does not meet the definition of a nontransient, noncommunity water system.

(88) [(87)] Vessel--In reference to a reverse osmosis or nanofiltration membrane system, a cylindrical housing unit where membrane modules are placed in a series to form one unit.

(89) [(88)] Wastewater lateral--Any pipe or constructed conveyance carrying wastewater, running laterally down a street, alley, or easement, and receiving flow only from the abutting properties.

(90) [(89)] Wastewater main--Any pipe or constructed conveyance which receives flow from one or more wastewater laterals.

(91) [(90)] Water system--Public water system as defined in this section unless otherwise modified (i.e., distribution system).

§290.45. Minimum Water System Capacity Requirements.

(a) General provisions.

(1) The requirements contained in this section are to be used in evaluating both the total capacities for public water systems and the capacities at individual pump stations and pressure planes which serve portions of the system that are hydraulically separated from, or incapable of being served by, other pump stations or pressure planes. The capacities specified in this section are minimum requirements only and do not include emergency fire flow capacities for systems required to meet requirements contained in §290.46(x) and (y) of this title (relating to Minimum Acceptable Operating Practices for Public Drinking Water Systems).

(2) The executive director will require additional supply, storage, service pumping, and pressure maintenance facilities if a normal operating pressure of 35 pounds per square inch (psi) cannot be maintained throughout the system, or if the system's maximum daily demand exceeds its total production and treatment capacity. The executive director will also require additional capacities for a system that is unable to maintain a minimum pressure of 20 psi during firefighting, line flushing, other unusual conditions, and systems that are required to provide fire flow as specified in §290.46(x) and (y) of this title.

(3) The executive director may establish additional capacity requirements for a public water system using the method of calculation described in subsection (g)(2) of this section if there are repeated customer complaints regarding inadequate pressure or if the executive director receives a request for a capacity evaluation from customers of the system.

(4) Throughout this section, total storage capacity does not include pressure tank capacity.

(5) The executive director may exclude the capacity of facilities that have been inoperative for the past 120 days and will not be returned to an operative condition within the next 30 days when determining compliance with the requirements of this section.

(6) The capacity of the treatment facilities shall not be less than the required raw water or groundwater production rate or the anticipated maximum daily demand of the system. The production capacity of a reverse osmosis or nanofiltration membrane system shall be the

quantity of permeate water after post-treatment that can be delivered to the distribution system. The amount available for customer use must consider:

(A) the quantity of feed water discharged to waste;

(B) the quantity of bypass water used for blending;

(C) the quantity of permeate water used for cleaning and maintenance; and

(D) any other loss of raw water or groundwater available for use due to other processes at the reverse osmosis or nanofiltration facility.

(7) If a public water system that is an affected utility fails to provide a minimum of 20 psi or a pressure approved by the executive director, or 35 psi, as required by TWC §13.1394 and §13.1395 respectively, throughout the distribution system during emergency operations as soon as it is safe and practicable following the occurrence of a natural disaster, a revised emergency preparedness plan or justification regarding pressure drop shall be submitted for review and approval within 180 days of the date normal power is restored. Based on the review of the revised emergency preparedness plan, the executive director may require additional or alternative auxiliary emergency facilities.

(8) A public water system that is an affected utility is required to review its emergency preparedness plan once every three years. An affected utility shall submit a new or

revised emergency preparedness plan to the executive director for approval within 90 days after any of the following conditions occur:

(A) An affected utility chooses to implement a different option or options other than those in the most recent approved emergency preparedness plan;

(B) A previously non-affected utility meets the definition of an affected utility;

(C) An affected utility makes a significant change as described in §290.39(j) of this title that affects emergency operations; or

(D) An affected utility makes changes to utility contact or emergency communications information. For these changes, the affected utility must submit only the updated applicable pages of the emergency preparedness plan to the executive director.

(b) Community water systems.

(1) Groundwater supplies must meet the following requirements.

(A) If fewer than 50 connections without ground storage, the system must meet the following requirements:

(i) a well capacity of 1.5 gallons per minute (gpm) per connection; and

(ii) a pressure tank capacity of 50 gallons per connection.

(B) If fewer than 50 connections with ground storage, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more service pumps having a total capacity of 2.0 gpm per connection; and

(iv) a pressure tank capacity of 20 gallons per connection.

(C) For 50 to 250 connections, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required; and

(iv) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection.

(D) For more than 250 connections, the system must meet the following requirements:

(i) two or more wells having a total capacity of 0.6 gpm per connection. Where an interconnection is provided with another acceptable water system capable of supplying at least 0.35 gpm for each connection in the combined system under emergency conditions, an additional well will not be required as long as the 0.6 gpm per connection requirement is met for each system on an individual basis. Each water system must still meet the storage and pressure maintenance requirements on an individual basis unless the interconnection is permanently open. In this case, the systems' capacities will be rated as though a single system existed;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required;

(iv) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for up to 2,500 connections. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met; and

(v) emergency power for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient emergency power must be provided to deliver a minimum of 0.35 gpm per connection and meet minimum pressure requirements to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has emergency power and is able to supply at least 0.35 gpm for each connection in the combined system. Emergency power must be maintained as required by §290.46(m)(8) of this title.

(E) Mobile home parks with a density of eight or more units per acre and apartment complexes which supply fewer than 100 connections without ground storage must meet the following requirements:

(i) a well capacity of 1.0 gpm per connection; and

(ii) a pressure tank capacity of 50 gallons per connection with a maximum of 2,500 gallons required.

(F) Mobile home parks and apartment complexes which supply 100 connections or greater, or fewer than 100 connections and utilize ground storage must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection. Systems with 250 or more connections must have either two wells or an approved interconnection which is capable of supplying at least 0.35 gpm for each connection in the combined system;

(ii) a total storage of 200 gallons per connection;

(iii) at least two service pumps with a total capacity of 2.0 gpm per connection; and

(iv) a pressure tank capacity of 20 gallons per connection.

(2) Surface water supplies must meet the following requirements:

(A) a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service;

(B) a treatment plant capacity of 0.6 gpm per connection under normal rated design flow;

(C) transfer pumps (where applicable) with a capacity of 0.6 gpm per connection with the largest pump out of service;

(D) a covered clearwell storage capacity at the treatment plant of 50 gallons per connection or, for systems serving more than 250 connections, 5.0% of daily plant capacity;

(E) a total storage capacity of 200 gallons per connection;

(F) a service pump capacity that provides each pump station or pressure plane with two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane;

(G) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for systems of up to 2,500 connections. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met; and

(H) emergency power for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient emergency power must be provided to deliver a minimum of 0.35 gpm per connection and meet minimum pressure requirements to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has emergency power and is able to supply at least 0.35 gpm for each connection in the combined system. Emergency power must be maintained as required by §290.46(m)(8) of this title.

(3) Any community public water system that is an affected utility, defined in TWC §13.1394 or §13.1395 shall have an emergency preparedness plan approved by the executive director and must meet the requirements for emergency operations contained in subsection (h) or (i) of this section. This includes any affected utility that provides 100 gallons of elevated storage capacity per connection.

(c) Noncommunity water systems serving transient accommodation units. The following water capacity requirements apply to noncommunity water systems serving accommodation

units such as hotel rooms, motel rooms, travel trailer spaces, campsites, and similar accommodations.

(1) Groundwater supplies must meet the following requirements.

(A) If fewer than 100 accommodation units without ground storage, the system must meet the following requirements:

(i) a well capacity of 1.0 gpm per unit; and

(ii) a pressure tank capacity of ten gallons per unit with a minimum of 220 gallons.

(B) For systems serving fewer than 100 accommodation units with ground storage or serving 100 or more accommodation units, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per unit;

(ii) a ground storage capacity of 35 gallons per unit;

(iii) two or more service pumps which have a total capacity of 1.0 gpm per unit; and

(iv) a pressure tank capacity of ten gallons per unit.

(2) Surface water supplies, regardless of size, must meet the following requirements:

(A) a raw water pump capacity of 0.6 gpm per unit with the largest pump out of service;

(B) a treatment plant capacity of 0.6 gpm per unit;

(C) a transfer pump capacity (where applicable) of 0.6 gpm per unit with the largest pump out of service;

(D) a ground storage capacity of 35 gallons per unit with a minimum of 1,000 gallons as clearwell capacity;

(E) two or more service pumps with a total capacity of 1.0 gpm per unit; and

(F) a pressure tank capacity of ten gallons per unit with a minimum requirement of 220 gallons.

(3) A noncommunity public water system that is an affected utility, defined in TWC §13.1394 or §13.1395 shall meet the requirements of subsection (h) or (i) of this section.

(d) Noncommunity water systems serving other than transient accommodation units.

(1) The following table is applicable to paragraphs (2) and (3) of this subsection and shall be used to determine the maximum daily demand for the various types of facilities listed.

Figure: 30 TAC §290.45(d)(1)

Table A

Type of Establishment	Gallons/Person/Day
Restaurants.	18
Schools without cafeterias, gymnasiums, or showers.	18
Schools with cafeterias, but no gymnasiums or showers.	24
Schools with cafeterias, gymnasiums, and showers.	30
Youth camps without flush toilets, showers, or dining halls.	6
Youth camps with flush toilets, but no showers or dining halls. . .	24
Youth camps with flush toilets, showers, and dining halls.	42
Office buildings.	18
Hospitals (based on number of beds).	720
Institutions, other than hospitals. .	240
Factories (exclusive of industrial processes).	24
Parks.	6
Swimming pools.	12
Country clubs.	120
Airports (per passenger).	6
Self-service laundries.	60
Service stations/stores.	12

It should be noted that this table is used to determine minimum capacities only and that the overriding criteria will be the ability of the system to maintain a minimum pressure of 35 psi under normal operating conditions. Minimum distribution pressure shall not be less than 20 psi at any time.

(2) Groundwater supplies must meet the following requirements.

(A) Subject to the requirements of subparagraph (B) of this paragraph, if fewer than 300 persons per day are served, the system must meet the following requirements:

(i) a well capacity which meets or exceeds the maximum daily demand of the system during the hours of operation; and

(ii) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(B) Systems which serve 300 or more persons per day or serve fewer than 300 persons per day and provide ground storage must meet the following requirements:

(i) a well capacity which meets or exceeds the maximum daily demand;

(ii) a ground storage capacity which is equal to 50% of the maximum daily demand;

(iii) if the maximum daily demand is less than 15 gpm, at least one service pump with a capacity of three times the maximum daily demand;

(iv) if the maximum daily demand is 15 gpm or more, at least two service pumps with a total capacity of three times the maximum daily demand; and

(v) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(3) Each surface water supply or groundwater supply that is under the direct influence of surface water, regardless of size, must meet the following requirements:

(A) a raw water pump capacity which meets or exceeds the maximum daily demand of the system with the largest pump out of service;

(B) a treatment plant capacity which meets or exceeds the system's maximum daily demand;

(C) a transfer pump capacity (where applicable) sufficient to meet the maximum daily demand with the largest pump out of service;

(D) a clearwell capacity which is equal to 50% of the maximum daily demand;

(E) two or more service pumps with a total capacity of three times the maximum daily demand; and

(F) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(4) A noncommunity public water system that is an affected utility, defined in TWC §13.1394 or §13.1395, shall meet the requirements of subsection (h) or (i) of this section.

(e) Water wholesalers. The following additional requirements apply to systems which supply wholesale treated water to other public water supplies.

(1) All wholesalers must provide enough production, treatment, and service pumping capacity to meet or exceed the combined maximum daily commitments specified in their various contractual obligations. If a contract prohibits a purchaser from securing water from sources other than the contracted wholesaler during emergency operations, the wholesaler is responsible for meeting applicable capacity requirements.

(2) For wholesale water suppliers, minimum water system capacity requirements shall be determined by calculating the requirements based upon the number of retail customer

service connections of that wholesale water supplier, if any, fire flow capacities, if required by §290.46(x) and (y) of this title and adding that amount to the maximum amount of water obligated or pledged under all wholesale contracts.

(3) Emergency power is required for each portion of the system which supplies more than 250 connections under direct pressure and does not provide an elevated storage capacity of at least 100 gallons per connection. If emergency power is required, it must be sufficient to deliver 20% of the minimum required service pump capacity and meet minimum pressure requirements in the event of the loss of normal power supply. When the wholesaler provides water through an air gap into the purchaser's storage facilities it will be the purchaser's responsibility to meet all minimum water system capacity requirements including emergency power. For wholesale contracts executed or amended on or after January 1, 2025, the contract must specify if the wholesaler will supply water, pressure, or both water and pressure during emergency operations to comply with TWC §13.1394 or §13.1395.

(4) A wholesaler that is an affected utility, defined in TWC §13.1394 or §13.1395, must meet the requirements specified in subsection (h) or (i) of this section.

(f) Purchased water systems. The following requirements apply only to systems which purchase treated water to meet all or part of their production, storage, service pump, or pressure maintenance capacity requirements.

(1) The water purchase contract must be available to the executive director in order that production, storage, service pump, or pressure maintenance capacity may be

properly evaluated. For purposes of this section, a contract may be defined as a signed written document of specific terms agreeable to the water purchaser and the water wholesaler, or in its absence, a memorandum or letter of understanding between the water purchaser and the water wholesaler.

(2) The contract shall authorize the purchase of enough water to meet the monthly or annual needs of the purchaser.

(3) The contract shall also establish the maximum rate at which water may be drafted on a daily and hourly basis. In the absence of specific maximum daily or maximum hourly rates in the contract, a uniform purchase rate for the contract period will be used.

(4) The maximum authorized daily purchase rate specified in the contract, or a uniform purchase rate in the absence of a specified daily purchase rate, plus the actual production capacity of the system must be at least 0.6 gpm per connection.

(5) For systems which purchase water under direct pressure, the maximum hourly purchase authorized by the contract plus the actual service pump capacity of the system must be at least 2.0 gpm per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less.

(6) The purchaser is responsible for meeting all capacity requirements. If additional capacity to meet increased demands cannot be attained from the wholesaler through a new or amended contract, additional capacity must be obtained from water purchase

contracts with other entities, new wells, or surface water treatment facilities. However, if the water purchase contract prohibits the purchaser from securing water from sources other than the wholesaler, the wholesaler is responsible for meeting applicable capacity requirements. For wholesale contracts executed or amended on or after January 1, 2025, the contract must specify if the wholesaler will supply water, pressure, or both water and pressure during emergency operations to comply with TWC §13.1394 or §13.1395.

(7) All other minimum capacity requirements specified in this section and §290.46(x) and (y) of this title shall apply.

(g) Alternative capacity requirements. Public water systems may request approval to meet alternative capacity requirements in lieu of the minimum capacity requirements specified in this section. Any water system requesting to use an alternative capacity requirement must demonstrate to the satisfaction of the executive director that approving the request will not compromise the public health or result in a degradation of service or water quality and comply with the requirements found in §290.46(x) and (y) of this title. Alternative capacity requirements are unavailable for groundwater systems serving fewer than 50 connections without total storage as specified in subsection (b)(1) of this section or for noncommunity water systems as specified in subsections (c) and (d) of this section.

(1) Alternative capacity requirements for public water systems may be granted upon request to and approval by the executive director. The request to use an alternative capacity requirement must include:

(A) a detailed inventory of the major production, pressurization, and storage facilities utilized by the system;

(B) records kept by the water system that document the daily production of the system. The period reviewed shall not be less than three years. The applicant may not use a calculated peak daily demand;

(C) data acquired during the last drought period in the region, if required by the executive director;

(D) the actual number of active connections for each month during the three years of production data;

(E) description of any unusual demands on the system such as fire flows or major main breaks that will invalidate unusual peak demands experienced in the study period;

(F) any other relevant data needed to determine that the proposed alternative capacity requirement will provide at least 35 psi in the public water system except during line repair or during firefighting when it cannot be less than 20 psi; and

(G) a copy of all data relied upon for making the proposed determination.

(2) Alternative capacity requirements for existing public water systems must be based upon the maximum daily demand for the system, unless the request is submitted by a licensed professional engineer in accordance with the requirements of paragraph (3) of this subsection. The maximum daily demand must be determined based upon the daily usage data contained in monthly operating reports for the system during a 36 consecutive month period. The 36 consecutive month period must end within 90 days of the date of submission to ensure the data is as current as possible.

(A) Maximum daily demand is the greatest number of gallons, including groundwater, surface water, and purchased water delivered by the system during any single day during the review period. Maximum daily demand excludes unusual demands on the system such as fire flows or major main breaks.

(B) For the purpose of calculating alternative capacity requirements, an equivalency ratio must be established. This equivalency ratio must be calculated by multiplying the maximum daily demand, expressed in gpm per connection, by a fixed safety factor and dividing the result by 0.6 gpm per connection. The safety factor shall be 1.15 unless it is documented that the existing system capacity is adequate for the next five years. In this case, the safety factor may be reduced to 1.05. The conditions in §291.93(3) of this title (relating to Adequacy of Water Utility Service) concerning the 85% rule shall continue to apply to public water systems that are also retail public utilities.

(C) To calculate the alternative capacity requirements, the equivalency ratio must be multiplied by the appropriate minimum capacity requirements specified in

subsection (b) of this section. Standard rounding methods are used to round calculated alternative production capacity requirement values to the nearest one-hundredth.

(3) Alternative capacity requirements which are proposed and submitted by licensed professional engineers for review are subject to the following additional requirements.

(A) A signed and sealed statement by the licensed professional engineer must be provided which certifies that the proposed alternative capacity requirements have been determined in accordance with the requirements of this subsection.

(B) If the system is new or at least 36 consecutive months of data is not available, maximum daily demand may be based upon at least 36 consecutive months of data from a comparable public water system. A licensed professional engineer must certify that the data from another public water system is comparable based on consideration of the following factors: prevailing land use patterns (rural versus urban); number of connections; density of service populations; fire flow obligations; and socio-economic, climatic, geographic, and topographic considerations as well as other factors as may be relevant. The comparable public water system shall not exhibit any of the conditions listed in paragraph (6)(A) of this subsection.

(4) The executive director shall consider requests for alternative capacity requirements in accordance with the following requirements.

(A) For those requests submitted under the seal of a licensed professional engineer, the executive director must mail written acceptance or denial of the proposed alternative capacity requirements to the public water system within 90 days from the date of submission. If the executive director fails to mail written notification within 90 days, the alternative capacity requirements submitted by a licensed professional engineer automatically become the alternative capacity requirements for the public water system.

(B) If the executive director denies the request:

(i) the executive director shall mail written notice to the public water system identifying the specific reason or reasons for denial and allow 45 days for the public water system to respond to the reason(s) for denial;

(ii) the denial is final if no response from the public water system is received within 45 days of the written notice being mailed; and

(iii) the executive director must mail a final written approval or denial within 60 days from the receipt of any response timely submitted by the public water system.

(5) Although elevated storage is the preferred method of pressure maintenance for systems of over 2,500 connections, it is recognized that local conditions may dictate the use of alternate methods utilizing hydropneumatic tanks and on-site emergency power equipment. Alternative capacity requirements to the elevated storage requirements may be obtained based

on request to and approval by the executive director. Special conditions apply to systems qualifying for an elevated storage alternative capacity requirement.

(A) The system must submit documentation sufficient to assure that the alternate method of pressure maintenance is capable of providing a safe and uninterrupted supply of water under pressure to the distribution system during all demand conditions.

(i) A signed and sealed statement by a licensed professional engineer must be provided which certifies that the pressure maintenance facilities are sized, designed, and capable of providing a minimum pressure of at least 35 psi at all points within the distribution network at flow rates of 1.5 gpm per connection or greater. In addition, the engineer must certify that the emergency power facilities are capable of providing the greater of the average daily demand or 0.35 gpm per connection while maintaining distribution pressures of at least 20 psi or a pressure approved by the executive director, or 35 psi, as required by TWC §13.1394 and §13.1395, respectively, and that emergency power facilities powering production and treatment facilities are capable of supplying at least 0.35 gpm per connection to storage.

(ii) The system's licensed professional engineer must conduct a hydraulic analysis of the system under peak conditions. This must include an analysis of the time lag between the loss of the normal power supply and the commencement of emergency power as well as the minimum pressure that will be maintained within the distribution system during this time lag. In no case shall this minimum pressure within the distribution system be

less than 20 psi. The results of this analysis must be submitted to the executive director for review.

(iii) For existing systems, the system's licensed professional engineer must provide continuous pressure chart recordings of distribution pressures maintained during past power failures, if available. The period reviewed shall not be less than three years.

(iv) A public water system that is an affected utility, defined in TWC §13.1394 or §13.1395, must conduct the modeling requirements contained in clauses (i) - (iii) of this subparagraph using the requirements specified in subsection (h) or (i) of this section.

(B) Emergency power facilities must be maintained and provided with necessary appurtenances to assure immediate and dependable operation in case of normal power interruption. A public water system that is an affected utility, defined in TWC §13.1394 or §13.1395, must meet the requirements specified in subsection (h) or (i) of this section.

(i) The facilities must be serviced and maintained in accordance with Level 2 maintenance requirements contained in the current NFPA 110 Standard and the manufacturers' recommendations if the affected utility serves 1,000 connections or greater, or in accordance with manufacturer's recommendations and as prescribed in §290.46(m)(8) of this title if the affected utility serves fewer than 1,000 connections.

(ii) The switching gear must be capable of bringing the emergency power generating equipment on-line during a power interruption such that the pressure in the distribution network does not fall below 20 psi or a pressure approved by the executive director, or 35 psi, as required by TWC §13.1394 and §13.1395, respectively.

(iii) The minimum on-site fuel storage capacity shall be determined by the fuel demand of the emergency power facilities and the frequency of fuel delivery. An amount of fuel equal to that required to operate the emergency power facilities during emergency operations for a period of at least 48 hours must always be maintained on site or made readily available.

(iv) Residential rated mufflers or other means of effective noise suppression must be provided on each emergency power motor.

(C) Battery-powered or uninterrupted power supply pressure monitors and chart recorders which are configured to activate immediately upon loss of normal power must be provided for pressure maintenance facilities. These records must be kept for a minimum of three years and made available for review by the executive director. Records must include chart recordings of all power interruptions including interruptions due to periodic emergency power under-load testing and maintenance.

(6) Any alternative capacity requirement granted under this subsection is subject to review and revocation or revision by the executive director. If permission to use an

alternative capacity requirement is revoked, the public water system must meet the applicable minimum capacity requirements of this section.

(A) The following conditions, if attributable to the alternative capacity requirements, may constitute grounds for revocation or revision of established alternative capacity requirements or for denial of new requests, if the condition occurred within the last 36 months:

(i) documented pressure below 35 psi at any time not related to line repair, except during firefighting when it cannot be less than 20 psi;

(ii) water outages due to high water usage;

(iii) mandatory water rationing due to high customer demand or overtaxed water production or supply facilities;

(iv) failure to meet a minimum capacity requirement or an established alternative capacity requirement;

(v) changes in water supply conditions or usage patterns which create a potential threat to public health; or

(vi) any other condition where the executive director finds that the alternative capacity requirement has compromised public health or resulted in a degradation of service or water quality.

(B) If the executive director finds any of the conditions specified in subparagraph (A) of this paragraph, the process for revocation or revision of an alternative capacity requirement shall be as follows, unless the executive director finds that failure of the service or other threat to public health and safety is imminent under subparagraph (C) of this paragraph.

(i) The executive director must mail the public drinking water system written notice of the executive director's intent to revoke or revise an alternative capacity requirement identifying the specific reason(s) for the proposed action.

(ii) The public water system has 30 days from the date the written notice is mailed to respond to the proposed action.

(iii) The public water system has 30 days from the date the written notice is mailed to request a meeting with the agency's public drinking water program personnel to review the proposal. If requested, such a meeting must occur within 45 days of the date the written notice is mailed.

(iv) After considering any response from or after any requested meeting with the public drinking water system, the executive director must mail written notification to the public drinking water system of the executive director's final decision to continue, revoke, or revise an alternative capacity requirement identifying the specific reason(s) for the decision.

(C) If the executive director finds that failure of the service or other threat to public health and safety is imminent, the executive director may issue written notification of the executive director's final decision to revoke or revise an alternative capacity requirement at any time.

(h) Affected utilities as defined in TWC §13.1394. This subsection applies to all affected utilities, as defined in TWC §13.1394, and is in addition to any other requirements pertaining to emergency power found in this chapter.

(1) Affected utilities must provide one or more of the following options to ensure the emergency operation of its water system during an extended power outage at a minimum of 20 psi, or a pressure approved by the executive director, whichever is applicable, and in accordance with the affected utility's approved emergency preparedness plan:

(A) the maintenance of automatically starting auxiliary generators;

(B) the sharing of auxiliary generator capacity with one or more affected utilities, including through participation in a statewide mutual aid program;

(C) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers, or conveyers of potable water or raw water service, if the agreements provide for coordination with the division of emergency management in the governor's office;

(D) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems;

(E) the use of on-site electrical generation or electrical distribution generation facilities;

(F) hardening of the electric transmission and electric distribution system against damage from natural disasters during an extended power outage;

(G) the maintenance of direct engine or right-angle drives;

(H) designation of the water system as a critical load facility or redundant, isolated or dedicated electrical feeds;

(I) water storage capabilities with sufficient storage to provide water to customers during an extended power outage;

(J) water supplies can be delivered from outside the service area of the affected utility by opening an emergency interconnect or using a water hauler;

(K) affected utility has ability to provide water through artesian flows;

(L) affected utility has ability to open valves between pressure zones to provide redundant interconnectivity between pressure zones;

(M) affected utility will implement emergency water demand rules to maintain emergency operations; or

(N) any other alternative determined by the executive director to be acceptable.

(2) Each affected utility that supplies, provides, or conveys raw surface water shall include in its emergency preparedness plan, under paragraph (1) of this subsection, provisions for demonstrating the capability of each raw water intake pump station, pump station, and pressure facility necessary to provide raw water service to its wholesale customers during emergencies. This does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

(3) Emergency generators used as part of an approved emergency preparedness plan must be inspected, maintained, tested, and operated in accordance with the manufacturer's specifications and as outlined in 290.46(m)(8) of this title.

(4) An affected utility may adopt and is encouraged to enforce limitations on water use while the utility is providing emergency operations.

(5) As soon as safe and practicable following the occurrence of a natural disaster, an affected utility must operate in accordance with its approved emergency preparedness plan, which may include using elevated storage. An affected utility may meet the requirements of

TWC §13.1394 including having a currently approved emergency preparedness plan, in lieu of any other rules regarding elevated storage requirements, provided that, under normal operating conditions, the affected utility continues to meet the pressure requirements of §290.46(r) of this title (related to Minimum Acceptable Operating Practices for Public Drinking Water Systems) and the production, treatment, total storage, and service pump capacity requirements of this subchapter.

(6) An affected utility must maintain on-site, or make readily available during emergency operations, an amount of fuel necessary to operate any required emergency power equipment necessary to maintain emergency operations for at least 48 hours.

(7) Each affected utility must implement its emergency preparedness plan upon approval by the executive director.

(i) Affected utilities as defined by TWC §13.1395. This subsection applies to all affected utilities as defined by TWC §13.1395 and is in addition to any other requirements pertaining to emergency power found in this subchapter.

(1) Affected utilities must provide one of the following options of sufficient power to meet the capacity requirements of paragraph (1) or (2) of this subsection, whichever is applicable, and in accordance with the affected utility's approved emergency preparedness plan:

(A) the maintenance of automatically starting auxiliary generators;

(B) the sharing of auxiliary generator capacity with one or more affected utilities;

(C) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers, or conveyors of potable or raw water service, if the agreements provide for coordination with the division of emergency management in the governor's office;

(D) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems;

(E) the use of on-site electrical generation or electrical distributed generation facilities;

(F) hardening of the electric transmission and electric distribution system against damage from natural disasters during an extended power outage;

(G) the maintenance of direct engine or right-angle drives; or

(H) any other alternative determined by the executive director to be acceptable.

(2) Each affected utility that supplies, provides, or conveys surface water to wholesale customers shall install and maintain automatically starting auxiliary generators or distributive generation facilities for each raw water intake pump station, water treatment plant, pump station, and pressure facility necessary to provide water to its wholesale customers. This does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

(3) Emergency generators used as part of an approved emergency preparedness plan must be maintained, tested, and operated in accordance with Level 2 maintenance requirements contained in the current NFPA 110 Standard and the manufacturers specifications if the affected utility serves 1,000 connections or greater, or the manufacturer's specifications and as outlined in §290.46(m)(8) of this title for affected utilities serving fewer than 1,000 connections.

(4) An affected utility may adopt and is encouraged to enforce limitations on water use while the utility is providing emergency operations.

(5) As soon as safe and practicable following the occurrence of a natural disaster, an affected utility must operate in accordance with its approved emergency preparedness plan, which may include using elevated storage. An affected utility may meet the requirements of TWC §13.1395, including having a currently approved emergency preparedness plan, in lieu of any other rules regarding elevated storage requirements, provided that, under normal operating conditions, the affected utility continues to meet the pressure requirements of §290.46(r) of

this title and the production, treatment, total storage and service pump capacity requirements of this subchapter.

(6) An affected utility must maintain on-site, or make readily available during emergency operations, an amount of fuel necessary to operate any required emergency power equipment necessary to maintain emergency operations for at least 48 hours.

(7) Each affected utility must implement their emergency preparedness plan upon approval by the executive director.

(j) Alternative recreational vehicle park connection equivalency. If the actual water usage of a recreational vehicle park that is a retail customer of a public water system is less than 90 percent of the average daily demand of 45.0 gallons per day per recreational vehicle site, the public water system may use an alternative recreational vehicle park connection equivalency calculated using the following figure. The alternative recreational vehicle park connection equivalency will be reviewed during on-site compliance inspections.

Figure: 30 TAC §290.45(j)

Alternative Recreational Vehicle Park Connection Equivalency Values.

Average Daily Demand (gallons per day per recreational vehicle site)	Alternative Recreational Vehicle Park Connection Equivalency[1]
40.6 and higher	8
36.1 to 40.5	8.9

31.6 to 36.0	10.0
27.1 to 31.5	11.4
22.6 to 27.0	13.3
18.1 to 22.5	16.0
13.6 to 18.0	20.0
9.1 to 13.5	26.7
4.6 to 9.0	40.0
0.1 to 4.5	80.0

[1]The calculated connection count for the recreational vehicle park must be at least 1.0.

(1) To determine the alternative recreational vehicle park connection equivalency, the public water system must calculate the recreational vehicle park's actual average daily demand.

(2) For the purposes of this paragraph, the actual average daily demand is determined based upon at least 12 consecutive months of meter readings for the recreational vehicle park, divided by the total number of days in those months. The actual average daily demand is then divided by the number of recreational vehicle sites and cabin sites within the recreational vehicle park, whether occupied or not.

§290.46. Minimum Acceptable Operating Practices for Public Drinking Water Systems.

(a) General. When a public drinking water supply system is to be established, plans shall be submitted to the executive director for review and approval prior to the construction of the system. All public water systems are to be constructed in conformance with the requirements

of this subchapter and maintained and operated in accordance with the following minimum acceptable operating practices. Owners and operators shall allow entry to members of the commission and employees and agents of the commission onto any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to public water systems in the state including the required elements of a sanitary survey as defined in §290.38 of this title (relating to Definitions). Members, employees, or agents acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials.

(b) Microbiological. Submission of samples for microbiological analysis shall be as required by Subchapter F of this chapter (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems). Microbiological samples may be required by the executive director for monitoring purposes in addition to the routine samples required by the drinking water standards. These samples shall be submitted to an accredited laboratory. (A list of the accredited laboratories can be obtained by contacting the executive director.) The samples shall be submitted to the executive director in a manner prescribed by the executive director.

(c) Chemical. Samples for chemical analysis shall be submitted as directed by the executive director.

(d) Disinfectant residuals and monitoring. A disinfectant residual must be continuously maintained during the treatment process and throughout the distribution system.

(1) Disinfection equipment shall be operated and monitored in a manner that will assure compliance with the requirements of §290.110 of this title (relating to Disinfectant Residuals).

(2) The disinfection equipment shall be operated to maintain the following minimum disinfectant residuals in each finished water storage tank and throughout the distribution system at all times:

(A) a free chlorine residual of 0.2 milligrams per liter (mg/L); or

(B) a chloramine residual of 0.5 mg/L (measured as total chlorine) for those systems that distribute chloraminated water.

(e) Operation by trained and licensed personnel. Except as provided in paragraph (1) of this subsection, the production, treatment, and distribution facilities at the public water system must be operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the executive director. Except as provided in paragraph (1) of this subsection, all public water systems must use a water works operator who holds an applicable, valid license issued by the executive director to meet the requirements of this subsection. The licensed operator of a public water system may be an employee, contractor, or volunteer.

(1) Transient, noncommunity public water systems are exempt from the requirements of this subsection if they use only groundwater or purchase treated water from another public water system.

(2) All public water systems that are subject to the provisions of this subsection shall meet the following requirements.

(A) Public water systems shall not allow new or repaired production, treatment, storage, pressure maintenance, or distribution facilities to be placed into service without the prior guidance and approval of a licensed water works operator.

(B) Public water systems shall ensure that their operators are trained regarding the use of all chemicals used in the water treatment plant. Training programs shall meet applicable standards established by the Occupational Safety and Health Administration or the Texas Hazard Communication Act, Texas Health and Safety Code, Chapter 502.

(C) Public water systems using chlorine dioxide shall place the operation of the chlorine dioxide facilities under the direct supervision of a licensed operator who has a Class "C" or higher license.

(D) Effective September 1, 2016, reverse osmosis or nanofiltration membrane systems must have operators that have successfully completed at least one

executive director-approved training course or event specific to the operations and maintenance of reverse osmosis or nanofiltration membrane treatment.

(3) Systems that only purchase treated water shall meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Purchased water systems serving no more than 250 connections must use an operator who holds a Class "D" or higher license.

(B) Purchased water systems serving more than 250 connections, but no more than 1,000 connections, must use an operator who holds a Class "C" or higher license.

(C) Purchased water systems serving more than 1,000 connections must use at least two operators who hold a Class "C" or higher license and who each work at least 16 hours per month at the public water system's treatment or distribution facilities.

(4) Systems that treat groundwater and do not treat surface water or groundwater that is under the direct influence of surface water shall meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Groundwater systems serving no more than 250 connections must use an operator with a Class "D" or higher license.

(B) Groundwater systems serving more than 250 connections, but no more than 1,000 connections, must use an operator with a Class "C" or higher groundwater license.

(C) Groundwater systems serving more than 1,000 connections must use at least two operators who hold a Class "C" or higher groundwater license and who each work at least 16 hours per month at the public water system's production, treatment, or distribution facilities.

(5) Systems that treat groundwater that is under the direct influence of surface water must meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Systems which serve no more than 1,000 connections and utilize cartridge or membrane filters must use an operator who holds a Class "C" or higher groundwater license and has completed a four-hour training course on monitoring and reporting requirements or who holds a Class "C" or higher surface water license and has completed the Groundwater Production course.

(B) Systems which serve more than 1,000 connections and utilize cartridge or membrane filters must use at least two operators who meet the requirements of subparagraph (A) of this paragraph and who each work at least 24 hours per month at the public water system's production, treatment, or distribution facilities.

(C) Systems which serve no more than 1,000 connections and utilize coagulant addition and direct filtration must use an operator who holds a Class "C" or higher surface water license and has completed the Groundwater Production course or who holds a Class "C" or higher groundwater license and has completed a Surface Water Production course. Effective January 1, 2007, the public water system must use at least one operator who has completed the Surface Water Production I course and the Surface Water Production II course.

(D) Systems which serve more than 1,000 connections and utilize coagulant addition and direct filtration must use at least two operators who meet the requirements of subparagraph (C) of this paragraph and who each work at least 24 hours per month at the public water system's production, treatment, or distribution facilities. Effective January 1, 2007, the public water system must use at least two operators who have completed the Surface Water Production I course and the Surface Water Production II course.

(E) Systems which utilize complete surface water treatment must comply with the requirements of paragraph (6) of this subsection.

(F) Each plant must have at least one Class "C" or higher operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the commission's drinking water standards during periods when the plant is not staffed.

(6) Systems that treat surface water must meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Surface water systems that serve no more than 1,000 connections must use at least one operator who holds a Class "B" or higher surface water license. Part-time operators may be used to meet the requirements of this subparagraph if the operator is completely familiar with the design and operation of the plant and spends at least four consecutive hours at the plant at least once every 14 days and the system also uses an operator who holds a Class "C" or higher surface water license. Effective January 1, 2007, the public water system must use at least one operator who has completed the Surface Water Production I course and the Surface Water Production II course.

(B) Surface water systems that serve more than 1,000 connections must use at least two operators; one of the required operators must hold a Class "B" or higher surface water license and the other required operator must hold a Class "C" or higher surface water license. Each of the required operators must work at least 32 hours per month at the public water system's production, treatment, or distribution facilities. Effective January 1, 2007, the public water system must use at least two operators who have completed the Surface Water Production I course and the Surface Water Production II course.

(C) Each surface water treatment plant must have at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues

to meet the commission's drinking water standards during periods when the plant is not staffed.

(D) Public water systems shall not allow Class "D" operators to adjust or modify the treatment processes at surface water treatment plant unless an operator who holds a Class "C" or higher surface license is present at the plant and has issued specific instructions regarding the proposed adjustment.

(f) Operating records and reports. All public water systems must maintain a record of water works operation and maintenance activities and submit periodic operating reports.

(1) The public water system's operating records must be organized, and copies must be kept on file or stored electronically.

(2) The public water system's operating records must be accessible for review during inspections and be available to the executive director upon request.

(3) All public water systems shall maintain a record of operations.

(A) The following records shall be retained for at least two years:

(i) the amount of chemicals used:

(I) Systems that treat surface water or groundwater under the direct influence of surface water shall maintain a record of the amount of each chemical used each day.

(II) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of each chemical used each day.

(III) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchased treated water shall maintain a record of the amount of each chemical used each week;

(ii) the volume of water treated and distributed:

(I) Systems that treat surface water or groundwater under the direct influence of surface water shall maintain a record of the amount of water treated and distributed each day.

(II) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of water distributed each day.

(III) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchase treated water shall maintain a record of the amount of water distributed each week.

(IV) Systems that serve 250 or more connections or serve 750 or more people and also add chemicals or provide pathogen or chemical removal shall maintain a record of the amount of water treated each day.

(V) Systems that serve fewer than 250 connections, serve fewer than 750 people, use only groundwater or purchase treated water, and also add chemicals or provide pathogen or chemical removal shall maintain a record of the amount of water treated each week;

(iii) the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation;

(iv) the dates that dead-end mains were flushed;

(v) the dates that storage tanks and other facilities were cleaned;

(vi) the maintenance records for water system equipment and facilities. For systems using reverse osmosis or nanofiltration, maintain records of each clean-in-place process including the date, duration, and procedure used for each event;

(vii) for systems that do not employ full-time operators to meet the requirements of subsection (e) of this section, a daily record or a monthly summary of the

work performed and the number of hours worked by each of the part-time operators used to meet the requirements of subsection (e) of this section; and

(viii) the owner or manager of a public water system that is operated by a volunteer to meet the requirements of subsection (e) of this section, shall maintain a record of each volunteer operator indicating the name of the volunteer, contact information for the volunteer, and the time period for which the volunteer is responsible for operating the public water system. These requirements apply to full-time and part-time licensed volunteer operators. Part-time licensed volunteer operators are excluded from the requirements of clause (vii) of this subparagraph.

(B) The following records shall be retained for at least three years:

(i) copies of notices of violation and any resulting corrective actions. The records of the actions taken to correct violations of primary drinking water regulations must be retained for at least three years after the last action taken with respect to the particular violation involved;

(ii) copies of any public notice issued by the water system;

(iii) the disinfectant residual monitoring results from the distribution system;

(iv) the calibration records for laboratory equipment, flow meters, rate-of-flow controllers, on-line turbidimeters, and on-line disinfectant residual analyzers;

(v) the records of backflow prevention device programs;

(vi) the raw surface water monitoring results and source water monitoring plans required by §290.111 of this title (relating to Surface Water Treatment) must be retained for three years after bin classification required by §290.111 of this title;

(vii) notification to the executive director that a system will provide 5.5-log *Cryptosporidium* treatment in lieu of raw surface water monitoring;

(viii) except for those specified in subparagraphs (C)(iv) and (E)(i) of this paragraph, the results of all surface water treatment monitoring that are used to demonstrate log inactivation or removal;

(ix) free and total chlorine, monochloramine, ammonia, nitrite, and nitrate monitoring results if chloramines are used in the water system; and

(x) the records of treatment effectiveness monitoring for systems using reverse osmosis or nanofiltration membranes. Treatment effectiveness monitoring includes the parameters for determining when maintenance is required. Examples of parameters to be monitored include conductivity (or total dissolved solids) on each membrane unit, pressure differential across a membrane vessel, flow, flux, and water temperature. At a

minimum, systems using reverse osmosis or nanofiltration membranes must monitor the conductivity (or total dissolved solids) of the feed and permeate water once per day.

(C) The following records shall be retained for a period of five years after they are no longer in effect:

(i) the records concerning a variance or exemption granted to the system;

(ii) Concentration Time (CT) studies for surface water treatment plants;

(iii) the Recycling Practices Report form and other records pertaining to site-specific recycle practices for treatment plants that recycle; and

(iv) the turbidity monitoring results and exception reports for individual filters as required by §290.111 of this title.

(D) The following records shall be retained for at least five years:

(i) the results of microbiological analyses;

(ii) the results of inspections (as required in subsection (m)(1) of this section) for all water storage and pressure maintenance facilities;

(iii) the results of inspections (as required by subsection (m)(2) of this section) for all pressure filters;

(iv) documentation of compliance with state approved corrective action plan and schedules required to be completed by groundwater systems that must take corrective actions;

(v) documentation of the reason for an invalidated fecal indicator source sample and documentation of a total coliform-positive sample collected at a location with conditions that could cause such positive samples in a distribution system;

(vi) notification to wholesale system(s) of a distribution coliform-positive sample for consecutive systems using groundwater;

(vii) Consumer Confidence Report compliance documentation;

(viii) records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the executive director-approved minimum specified disinfectant residual for a period of more than four hours for groundwater systems providing 4-log treatment;

(ix) records of executive director-specified compliance requirements for membrane filtration, records of parameters specified by the executive director

for approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours for groundwater systems. Membrane filtration can only be used if it is approved by the executive director and if it can be properly validated;

(x) assessment forms, regardless of who conducts the assessment, and documentation of corrective actions completed or documentation of corrective actions required but not yet completed as a result of those assessments and any other available summary documentation of the sanitary defects and corrective actions taken in accordance with §290.109 of this title (relating to Microbial Contaminants) for executive director review;

(xi) seasonal public water systems shall maintain executive director-approved start-up procedures and certification documentation in accordance with §290.109 of this title for executive director review; and

(xii) records of any repeat sample taken that meets the criteria for an extension of the 24-hour period for collecting repeat samples under §290.109 of this title.

(E) The following records shall be retained for at least ten years:

(i) copies of Monthly Operating Reports and any supporting documentation including turbidity monitoring results of the combined filter effluent;

(ii) the results of chemical analyses;

(iii) any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by the executive director shall be kept for a period not less than ten years after completion of the survey involved;

(iv) copies of the Customer Service Inspection reports required by subsection (j) of this section;

(v) copy of any Initial Distribution System Evaluation (IDSE) plan, report, approval letters, and other compliance documentation required by §290.115 of this title (relating to Stage 2 Disinfection Byproducts (TTHM and HAA5));

(vi) state notification of any modifications to an IDSE report;

(vii) copy of any 40/30 certification required by §290.115 of this title;

(viii) documentation of corrective actions taken by groundwater systems in accordance with §290.116 of this title (relating to Groundwater Corrective Actions and Treatment Techniques);

(ix) any Sample Siting Plans required by §290.109(d)(6) of this title and monitoring plans required by §290.121(b) of this title (relating to Monitoring Plans); and

(x) records of the executive director-approved minimum specified disinfectant residual and executive director-approved membrane system integrity monitoring results for groundwater systems providing 4-log treatment, including wholesale, and consecutive systems, regulated under §290.116(c) of this title.

(F) A public water system shall maintain records relating to lead and copper requirements under §290.117 of this title (relating to Regulation of Lead and Copper) for no less than 12 years. Any system subject to the requirements of §290.117 of this title shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, executive determinations, and any other information required by the executive director under §290.117 of this title. These records include, but are not limited to, the following items: tap water monitoring results including the location of each site and date of collection; certification of the volume and validity of first-draw-tap sample criteria via a copy of the laboratory analysis request form; where residents collected the sample; certification that the water system informed the resident of proper sampling procedures; the analytical results for lead and copper concentrations at each tap sample site; and designation of any substitute site not used in previous monitoring periods.

(G) A public water system shall maintain records relating to special studies and pilot projects, special monitoring, and other system-specific matters as directed by the executive director.

(4) Public water systems shall submit routine reports and any additional documentation that the executive director may require to determine compliance with the requirements of this chapter.

(A) The reports must be submitted to the Texas Commission on Environmental Quality, Water Supply Division, MC 155, P.O. Box 13087, Austin, Texas 78711-3087 by the tenth day of the month following the end of the reporting period.

(B) The reports must contain all the information required by the drinking water standards and the results of any special monitoring tests which have been required.

(C) The reports must be completed in ink, typed, or computer-printed and must be signed by the licensed water works operator.

(5) All public water systems that are affected utilities under TWC §13.1394 or §13.1395 must maintain the following records for as long as they are applicable to the system:

(A) An emergency preparedness plan approved by the executive director and a copy of the approval letter.

(B) All required operating, inspection, testing, and maintenance records for auxiliary power equipment, and associated components required to be maintained, or actions performed as prescribed in §290.46(m)(8) of this title.

(C) Copies of the manufacturer's specifications for all generators that are part of the approved emergency preparedness plan.

(g) Disinfection of new or repaired facilities. Disinfection by or under the direction of water system personnel must be performed when repairs are made to existing facilities and before new facilities are placed into service. Disinfection must be performed in accordance with American Water Works Association (AWWA) requirements and water samples must be submitted to an accredited laboratory. The sample results must indicate that the facility is free of microbiological contamination before it is placed into service. When it is necessary to return repaired mains to service as rapidly as possible, doses may be increased to 500 mg/L and the contact time reduced to 1/2 hour.

(h) Calcium hypochlorite. A supply of calcium hypochlorite disinfectant shall be kept on hand for use when making repairs, setting meters, and disinfecting new mains prior to placing them in service.

(i) Plumbing ordinance. Public water systems must adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted (See §290.47(b) of this title (relating to Appendices)). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair

of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

(j) Customer service inspections. A customer service inspection certificate shall be completed prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Any customer service inspection certificate form which varies from the format found in commission Form 20699 must be approved by the executive director prior to being placed in use.

(1) Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification.

(A) Plumbing Inspectors and Water Supply Protection Specialists licensed by the Texas State Board of Plumbing Examiners (TSBPE).

(B) Customer service inspectors who have completed a commission-approved course, passed an examination administered by the executive director, and hold current professional license as a customer service inspector.

(2) As potential contaminant hazards are discovered, they shall be promptly eliminated to prevent possible contamination of the water supplied by the public water system.

The existence of a health hazard, as identified in §290.47(f) of this title, shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the health hazard no longer exists, or until the health hazard has been isolated from the public water system in accordance with §290.44(h) of this title (relating to Water Distribution).

(3) These customer service inspection requirements are not considered acceptable substitutes for and shall not apply to the sanitary control requirements stated in §290.102(a)(5) of this title (relating to General Applicability).

(4) A customer service inspection is an examination of the private water distribution facilities for the purpose of providing or denying water service. This inspection is limited to the identification and prevention of cross-connections, potential contaminant hazards, and illegal lead materials. The customer service inspector has no authority or obligation beyond the scope of the commission's regulations. A customer service inspection is not a plumbing inspection as defined and regulated by the TSBPE. A customer service inspector is not permitted to perform plumbing inspections. State statutes and TSBPE adopted rules require that TSBPE licensed plumbing inspectors perform plumbing inspections of all new plumbing and alterations or additions to existing plumbing within the municipal limits of all cities, towns, and villages which have passed an ordinance adopting one of the plumbing codes recognized by TSBPE. Such entities may stipulate that the customer service inspection be performed by the plumbing inspector as a part of the more comprehensive plumbing inspection. Where such entities permit customer service inspectors to perform customer service inspections, the customer service inspector shall report any violations immediately to the local entity's plumbing inspection department.

(k) Interconnection. No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the executive director.

(l) Flushing of mains. All dead-end mains must be flushed at monthly intervals. Dead-end lines and other mains shall be flushed as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels as specified in §290.110 of this title.

(m) Maintenance and housekeeping. The maintenance and housekeeping practices used by a public water system shall ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.

(1) Each of the system's ground, elevated, and pressure tanks shall be inspected annually by water system personnel or a contracted inspection service.

(A) Ground and elevated storage tank inspections must determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gasketing provide adequate protection against insects, rodents, and other vermin, the

interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces, and the tank remains in a watertight condition.

(B) Pressure tank inspections must determine that the pressure release device and pressure gauge are working properly, the air-water ratio is being maintained at the proper level, the exterior coating systems are continuing to provide adequate protection to all metal surfaces, and the tank remains in watertight condition. Pressure tanks provided with an inspection port must have the interior surface inspected every five years.

(C) All tanks shall be inspected annually to determine that instrumentation and controls are working properly.

(2) When pressure filters are used, a visual inspection of the filter media and internal filter surfaces shall be conducted annually to ensure that the filter media is in good condition and the coating materials continue to provide adequate protection to internal surfaces.

(3) When cartridge filters are used, filter cartridges shall be changed at the frequency required by the manufacturer, or more frequently if needed.

(4) All water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances shall be maintained in a watertight condition and be free of excessive solids.

(5) Basins used for water clarification shall be maintained free of excessive solids to prevent possible carryover of sludge and the formation of tastes and odors.

(6) Pumps, motors, valves, and other mechanical devices shall be maintained in good working condition.

(7) Reverse osmosis or nanofiltration membrane systems shall be cleaned, or replaced, in accordance with the allowable operating conditions of the manufacturer and shall be based on one or more of the following: increased salt passage, increased or decreased pressure differential, and/or change in normalized permeate flow.

(8) Emergency generators must be appropriately tested and maintained monthly under at least 30% load based on the manufacturer's name plate kilowatt (kW) rating for at least 30 minutes, or as recommended by the manufacturer, to ensure functionality during emergency situations.

(A) Emergency generators operated at water systems serving 1,000 connections or greater must be maintained in accordance with Level 2 maintenance requirements contained in the current National Fire Protection Association (NFPA) 110 Standard and manufacturer's recommendation. In addition, the water system must maintain an inventory of operational maintenance items, lubricants, and coolants for critical generator components.

(B) Emergency generators operated at water systems serving fewer than 1,000 connections must be maintained according to clauses (i) - (x) of this subparagraph,

supplemented with any additional requirements not listed below as prescribed in the manufacturer's specifications, or Level 2 maintenance requirements contained in NFPA 110 Standard. In addition, the public water system must maintain an inventory of operational maintenance items, lubricants, and coolants for critical generator components.

(i) Prior to monthly generator start-up, inspect and perform any needed maintenance on the generator fuel system.

(I) Document tank levels and inspect fuel tanks for fuel contamination and condensation in the portion of the tank occupied by air. If contamination is suspected, replace or polish the contaminated fuel before use.

(II) Inspect fuel lines and fittings for breaks and degradation. Replace fuel lines if needed.

(III) Inspect fuel filters and water separators for water accumulation, clogging and sediment buildup. Replace fuel filters and separators at the frequency recommended by the manufacturer, or as needed.

(IV) Inspect fuel transfer pumps, float switches and valves, where provided, between holding tanks and the generator to verify that they are operating properly.

(V) Where provided, inspect fuel tank grounding rods, cathodic and generator lightning protection for damage that may render the protection ineffective.

(ii) While the generator is operating under load, inspect the fuel pump to verify that it is operating properly.

(iii) Prior to monthly generator start up, inspect and perform any needed maintenance on the generator lubrication system.

(I) Inspect oil lines and oil reservoirs for adequate oil levels, leaks, breaks and degradation. Change oil at the frequency recommended by the manufacturer.

(II) Grease all bearing components and grease fittings at the frequency recommended by the manufacturer.

(iv) Prior to monthly generator start up, inspect and perform any needed maintenance on the generator coolant system.

(I) Inspect the block heater, coolant lines and coolant reservoirs for adequate coolant levels, leaks, breaks and degradation; replace as needed.

(II) Inspect coolant filters for clogging and sediment buildup. Replace coolant filters at the frequency recommended by the manufacturer, or as needed.

(III) Inspect the radiator, fan system, belts and air intake and filters for obstruction, cracks, breaks, and leaks; replace as needed.

(v) While the generator is operating under load, inspect the exhaust manifold and muffler to verify that they are not obstructed or leaking, are in good working condition and that fumes are directed away from enclosed areas.

(vi) Where a generator is located inside an enclosed structure, a carbon monoxide monitor equipped with automatic alarms and generator shutdowns must be present and operational.

(vii) Prior to monthly generator start up, inspect and perform any needed maintenance on the generator electrical system.

(I) Confirm that all batteries are mounted and properly secured. Inspect battery chargers, wiring and cables for damage, corrosion, connection continuity, and that all contacts are securely tightened onto battery terminals.

(II) Inspect each battery unit for adequate electrolyte levels, charge retention and appropriate discharge voltage.

(viii) While the generator is operating under load, inspect engine starters and alternators to verify that they are operating properly.

(ix) At least once per month, inspect Programmable Logic Controllers (PLC) and Uninterrupted Power Supplies (UPC), where applicable, to ensure that they are water-tight and not subject to floods, are properly ventilated, and that backup power supplies have adequate charge.

(x) At least once per month, inspect switch gears to ensure they are water-tight and in good, working condition.

(9) All critical components as described in the table in §290.47(c) associated to the source, treatment, storage, or other facilities necessary for the continued operations and distribution of water to customers must be protected from adverse weather conditions. Weatherization methods must be maintained in good condition and replaced as needed to ensure adequate protection.

(n) Engineering plans and maps. Plans, specifications, maps, and other pertinent information shall be maintained to facilitate the operation and maintenance of the system's facilities and equipment. The following records shall be maintained on file at the public water system and be available to the executive director upon request.

(1) Accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank shall be maintained at the public water system until the facility is decommissioned. As-built plans of individual projects may be used to fulfill this requirement if the plans are maintained in an organized manner.

(2) An accurate and up-to-date map of the distribution system shall be available so that valves and mains can be easily located during emergencies.

(3) Copies of well completion data as defined in §290.41(c)(3)(A) of this title (relating to Water Sources) shall be kept on file for as long as the well remains in service.

(o) Filter backwashing at surface water treatment plants. Filters must be backwashed when a loss of head differential of six to ten feet is experienced between the influent and effluent loss of head gauges or when the turbidity level at the effluent of the filter reaches 1.0 nephelometric turbidity unit (NTU).

(p) Data on public water system ownership and management. The agency shall be provided with information regarding public water system ownership and management.

(1) When a public water system changes ownership, a written notice of the transaction must be provided to the executive director. The grantee shall notify the executive director of the change in ownership within 30 days after the effective date of the change in ownership by providing the name of the grantor, the effective date of the change in ownership,

the physical and mailing address and phone number of the grantee, the public water system's drinking water supply identification number, and any other information necessary to identify the transaction.

(2) On an annual basis, the owner of a public water system shall provide the executive director with a list of all the operators and operating companies that the public water system uses. The notice shall contain the name, contact information, work status, license number, and license class of each operator and the name and registration number of each operating company. Public water systems may report the list of operators and operating companies to the executive director by utilizing the Texas Commission on Environmental Quality (TCEQ) online "Operator Notice" form. If reporting cannot be accomplished utilizing the TCEQ online "Operator Notice" form, then a public water system may report the list of operators and operating companies on the written "Operator Notice" form to the executive director by mail, email or facsimile. (See §290.47(d) of this title).

(q) Special precautions, protective measures, and boil water notices. Special precautions, protective measures, and boil water notices shall be instituted by the public water system as specified in this subsection in the event of low distribution pressures (below 20 pounds per square inch (psi)), water outages, microbiological samples found to contain *Escherichia coli* (*E. coli*) (or other approved fecal indicator), failure to maintain adequate disinfectant residuals, elevated finished water turbidity levels, or other conditions which indicate that the potability of the drinking water supply has been compromised. Special precautions, protective measures, and boil water notices are corrective or protective actions which shall be instituted by the public water system to comply with the requirements of this subsection.

(1) A public water system shall issue a boil water notice, special precaution, or protective measure to customers throughout the distribution system or in the affected area(s) of the distribution system as soon as possible, but in no case later than 24 hours after the public water system has met any of the criteria described in subparagraph (A) and (B) of this paragraph.

(A) Situations requiring boil water notices:

(i) The flowchart found in §290.47(e) of this title shall be used to determine if a boil water notice shall be issued by the public water system to customers in the event of a loss of distribution system pressure.

(ii) A public water system shall issue a boil water notice to customers for a violation of the MCL for E. coli (or other approved fecal indicator) as described in §290.109(b)(1) of this title.

(iii) A public water system shall issue a boil water notice to customers if the combined filter effluent turbidity of the finished water, produced by a treatment plant that is treating surface water or groundwater under the direct influence of surface water, is above the turbidity level requirements as described in §290.122(a)(1)(B) of this title.

(iv) A public water system shall issue a boil water notice to customers if the public water system has failed to maintain adequate disinfectant residuals as described in subsection (d) of this section and as described in §290.110 of this title (relating to Disinfectant Residuals) for more than 24 hours.

(v) A public water system shall issue a boil water notice to customers if a waterborne disease outbreak occurs as defined in 40 Code for Federal Regulations §141.2.

(B) Situations requiring special precautions or protective measures may be determined by the public water system or at the discretion of the executive director, as described in paragraph (5) of this subsection.

(2) Boil water notices, special precautions, or protective measures shall be issued to customers by using one or more of the Tier 1 delivery methods as described in §290.122(a)(2) of this title (relating to Public Notification) and shall be issued using the applicable language and format specified by the executive director.

(3) A copy of boil water notice, special precaution, or protective measure issued shall be provided to the executive director electronically, within 24 hours or no later than the next business day after the issuance by the public water system, and a signed Certificate of Delivery shall be provided to the executive director within ten days after issuance by the public water system in accordance with §290.122(f) of this title.

(4) Boil water notices, special precautions, or protective measures shall be multilingual where appropriate, based upon local demographics.

(5) Special precautions, protective measures, and boil water notices may be required at the discretion of the executive director and shall be instituted by the public water system, upon written notification to the public water system, and shall remain in effect until the public water system meets the requirements of subparagraph (C) of this paragraph and paragraph (6) of this subsection.

(A) Circumstances warranting the exercise of such discretion may include:

(i) the public water system has failed to provide any of the required compliance information to the executive director as described in §290.111(h)(2) of this title (relating to Surface Water Treatment) and the failure results in the inability of the executive director to determine compliance as described in §290.111(i) of this title or the existence of a potential or actual health hazard, as described in §290.38 of this title (relating to Definitions); or

(ii) waterborne emergencies for situations that do not meet the definition of waterborne disease outbreak as defined in 40 Code of Federal Regulations §141.2, but that still have the potential to have serious adverse health effects as a result of short-term exposure. These can include, but are not limited to, outbreaks not related to treatment deficiencies, as well as situations that have the potential to cause outbreaks, such as failures or

significant interruption in water treatment processes, natural disasters that disrupt the water supply or distribution system, chemical spills, or unexpected loading of possible pathogens into the source water.

(B) The executive director will provide written notification to the public water system in the event a public water system is required to institute special precautions, protective measures, or issue boil water notices to customers at the discretion of the executive director. Upon written notification from the executive director, the public water system shall implement special precautions, protective measures, or issue boil water notices to customers within 24 hours or within the time period specified by the executive director. The executive director may specify, in writing, additional required actions to the requirements described in paragraph (6) of this subsection for a public water system to rescind the notice.

(C) The public water system shall provide any required information to the executive director to document that the public water system has met the rescind requirements for special precautions, protective measures, and boil water notices required at the discretion of the executive director under this paragraph.

(6) Once the boil water notice, special precaution, or protective measure is no longer in effect, the public water system shall notify customers that the notice has been rescinded. A public water system shall not rescind a notice or notify customers that a notice has been rescinded until the public water system has met all the applicable requirements, as described in subparagraph (A) of this paragraph.

(A) Required actions prior to rescinding a boil water notice include:

(i) water distribution system pressures in excess of 20 psi are consistently being maintained throughout the distribution system in accordance with the flowchart found in §290.47(e) of this title (relating to Appendices);

(ii) a minimum of 0.2 mg/L free chlorine residual or 0.5 mg/L chloramine residual (measured as total chlorine) is present and is consistently being maintained in each finished water storage tank and throughout the distribution system as described in subsection (d) of this section;

(iii) finished water entering the distribution system, produced by a treatment plant that is treating surface water or groundwater under the direct influence of surface water, has a turbidity level that is consistently below 1.0 NTU and the affected areas of the distribution system have been thoroughly flushed;

(iv) additional actions may be required by the executive director, in writing, and these additional actions shall be completed and documentation provided to the executive director for approval prior to the public water system rescinding the notice, and

(v) water samples for microbiological analysis, marked as "special" on the laboratory sample submission form, were collected from representative locations throughout the distribution system or in the affected area(s) of the distribution system after the public water system has met all other applicable requirements of this paragraph and the

water samples collected for microbiological analysis are found negative for coliform organisms. The water samples described in this subparagraph shall be analyzed at laboratories in accordance with §290.119 of this title (relating to Analytical Procedures).

(B) A public water system shall notify customers that the notice has been rescinded within 24 hours or no later than the next business day, using language and format specified by the executive director once the public water system has met the requirements of this paragraph. The method of delivery of the rescind notice must be in a manner similar to the original notice.

(C) The public water system shall provide a copy of the rescind notice, a copy of the associated microbiological laboratory analysis results, as required by subparagraph (A) of this paragraph, and a signed Certificate of Delivery to the executive director within ten days after the public water system has issued the rescind notice to customers in accordance with §290.122(f) of this title.

(r) Minimum pressures. All public water systems shall be operated to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. The system shall also be operated to maintain a minimum pressure of 20 psi during emergencies such as firefighting. As soon as safe and practicable following the occurrence of a natural disaster, a public water system that is an affected utility, as defined in TWC §13.1394 or §13.1395, shall maintain a minimum of 20 psi or a pressure approved by the executive director, or 35 psi, respectively, throughout the distribution system during an extended power outage.

(s) Testing equipment. Accurate testing equipment or some other means of monitoring the effectiveness of any chemical treatment or pathogen inactivation or removal processes must be used by the system.

(1) Flow-measuring devices and rate-of-flow controllers that are required by §290.42(b) and (d) of this title (relating to Water Treatment) shall be calibrated at least once every 12 months. Well meters required by §290.41(c)(3)(N) of this title shall be calibrated at least once every three years.

(2) Laboratory equipment used for compliance testing shall be properly calibrated.

(A) pH meters shall be properly calibrated.

(i) Benchtop pH meters shall be calibrated according to manufacturer specifications at least once each day.

(ii) The calibration of benchtop pH meters shall be checked with at least one buffer each time a series of samples is run, and if necessary, recalibrated according to manufacturer specifications.

(iii) On-line pH meters shall be calibrated according to manufacturer specifications at least once every 30 days.

(iv) The calibration of on-line pH meters shall be checked at least once each week with a primary standard or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit. If necessary, the on-line unit shall be recalibrated with primary standards.

(B) Turbidimeters shall be properly calibrated.

(i) Benchtop turbidimeters shall be calibrated with primary standards at least once every 90 days. Each time the turbidimeter is calibrated with primary standards, the secondary standards shall be restandardized.

(ii) The calibration of benchtop turbidimeters shall be checked with secondary standards each time a series of samples is tested, and if necessary, recalibrated with primary standards.

(iii) On-line turbidimeters shall be calibrated with primary standards at least once every 90 days.

(iv) The calibration of on-line turbidimeters shall be checked at least once each week with a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit. If necessary, the on-line unit shall be recalibrated with primary standards.

(C) Chemical disinfectant residual analyzers shall be properly calibrated.

(i) The accuracy of manual disinfectant residual analyzers shall be verified at least once every 90 days using chlorine solutions of known concentrations.

(ii) The accuracy of continuous disinfectant residual analyzers shall be checked at least once every seven days with a chlorine solution of known concentration or by comparing the results from the on-line analyzer with the result of approved benchtop method in accordance with §290.119 of this title.

(iii) If a disinfectant residual analyzer produces a result which is not within 15% of the expected value, the cause of the discrepancy must be determined and corrected and, if necessary, the instrument must be recalibrated.

(D) Analyzers used to determine the effectiveness of chloramination in §290.110(c)(5) of this title shall be properly verified in accordance with the manufacturer's recommendations every 90 days. These analyzers include monochloramine, ammonia, nitrite, and nitrate equipment used by the public water system.

(E) Ultraviolet (UV) light disinfection analyzers shall be properly calibrated.

(i) The accuracy of duty UV sensors shall be verified with a reference UV sensor monthly, according to the UV sensor manufacturer.

(ii) The reference UV sensor shall be calibrated by the UV sensor manufacturer on a yearly basis, or sooner if needed.

(iii) If used, the UV Transmittance (UVT) analyzer shall be calibrated weekly according to the UVT analyzer manufacturer specifications.

(F) Systems must verify the performance of direct integrity testing equipment in a manner and schedule approved by the executive director.

(G) Conductivity (or total dissolved solids) monitors and pressure instruments used for reverse osmosis and nanofiltration membrane systems shall be calibrated at least once every 12 months.

(H) Any temperature monitoring devices used for reverse osmosis and nanofiltration shall be verified and calibrated in accordance with the manufacturer's specifications.

(t) System ownership. All community water systems shall post a legible sign at each of its production, treatment, and storage facilities. The sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where a responsible official can be contacted.

(u) Abandoned wells. Abandoned public water supply wells owned by the system must be plugged with cement according to 16 TAC Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers). Wells that are not in use and are non-deteriorated as defined in those rules must be tested every five years or as required by the executive director to prove that they are in a non-deteriorated condition. The test results shall be sent to the executive director for review and approval. Deteriorated wells must be either plugged with cement or repaired to a non-deteriorated condition.

(v) Electrical wiring. All water system electrical wiring must be securely installed in compliance with a local or national electrical code.

(w) Security. All systems shall maintain internal procedures to notify the executive director by methods provided by the executive director [a toll-free reporting phone number] immediately upon determining that one of the following events has occurred, [events,] if the event may negatively impact the production or delivery of safe and adequate drinking water:

(1) an unusual or unexplained unauthorized entry at property of the public water system;

(2) an act of terrorism against the public water system;

(3) an unauthorized attempt to probe for or gain access to proprietary information that supports the key activities of the public water system;

(4) a theft of property that supports the key activities of the public water system;

(5) a natural disaster, accident, or act that results in damage to the public water system; or

(6) a nonindustrial water system that experiences an unplanned condition that has caused the system to issue a special precaution under §290.47(e) of this title or issue a do-not-consume advisory, do-not-use advisory, or boil water notice under subsection (q) of this section.

(A) For the purposes of this paragraph, a nonindustrial water system is defined as a public water system which does not exclusively serve industrial connections.

(B) For the purposes of this paragraph unplanned condition is defined as any condition where advance notice to water system customers has not been performed.

(x) Public safety standards. This subsection only applies to a municipality with a population of 1,000,000 or more, with a public utility within its corporate limits; a municipality with a population of more than 36,000 and less than 41,000 located in two counties, one of which is a county with a population of more than 1.8 million; a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction (ETJ), with a population of more than 7,000 and less than 30,000 located in a county with a population of more than 155,000 and less than 180,000; or a municipality, including any industrial district

within the municipality or its ETJ, with a population of more than 11,000 and less than 18,000 located in a county with a population of more than 125,000 and less than 230,000.

(1) In this subsection:

(A) "Regulatory authority" means, in accordance with the context in which it is found, either the commission or the governing body of a municipality.

(B) "Public utility" means any person, corporation, cooperative corporation, affected county, or any combination of these persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(C) "Residential area" means:

(i) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal land use is for private residences;

(ii) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75% of the front footage along the block face; or

(iii) a subdivision a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

(D) "Industrial district" has the meaning assigned by Texas Local Government Code, §42.044, and includes an area that is designated by the governing body of a municipality as a zoned industrial area.

(2) When the regulatory authority is a municipality, it shall by ordinance adopt standards for installing fire hydrants in residential areas in the municipality. These standards must, at a minimum, follow current AWWA standards pertaining to fire hydrants and the requirements of §290.44(e)(6) of this title.

(3) When the regulatory authority is a municipality, it shall by ordinance adopt standards for maintaining sufficient water pressure for service to fire hydrants adequate to

protect public safety in residential areas in the municipality. The standards specified in paragraph (4) of this subsection are the minimum acceptable standards.

(4) A public utility shall deliver water to any fire hydrant connected to the public utility's water system located in a residential area so that the flow at the fire hydrant is at least 250 gallons per minute for a minimum period of two hours while maintaining a minimum pressure of 20 psi throughout the distribution system during emergencies such as firefighting. That flow is in addition to the public utility's maximum daily demand for purposes other than firefighting.

(5) When the regulatory authority is a municipality, it shall adopt the standards required by this subsection within one year of the effective date of this subsection or within one year of the date this subsection first applies to the municipality, whichever occurs later.

(6) A public utility shall comply with the standards established by a municipality under both paragraphs (2) and (3) of this subsection within one year of the date the standards first apply to the public utility. If a municipality has failed to comply with the deadline required by paragraph (5) of this subsection, then a public utility shall comply with the standards specified in paragraphs (2) and (4) of this subsection within two years of the effective date of this subsection or within one year of the date this subsection first applies to the public utility, whichever occurs later.

(y) Fire hydrant flow standards.

(1) In this subsection:

(A) "Municipal utility" means a retail public utility, as defined by Texas Water Code (TWC), §13.002, that is owned by a municipality.

(B) "Residential area" means an area used principally for private residences that is improved with at least 100 single-family homes and has an average density of one home per half acre.

(C) "Utility" includes a "public utility" and "water supply or sewer service corporation" as defined by TWC §13.002.

(2) The governing body of a municipality by ordinance may adopt standards set by the executive director requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in a residential area located in the municipality or the municipality's ETJ. The municipality must submit a signed copy of the ordinance to the executive director within 60 days of the adoption of an ordinance by its governing body.

(3) In addition to a utility's maximum daily demand, the utility must provide, for purposes of emergency fire suppression:

(A) a minimum sufficient water flow of at least 250 gallons per minute for at least two hours; and

(B) a minimum sufficient water pressure of at least 20 psi.

(4) If a municipality adopts standards for a minimum sufficient water flow and pressure to fire hydrants, the municipality must require a utility to maintain at least the minimum sufficient water flow and pressure described by paragraph (3) of this subsection in fire hydrants in a residential area located within the municipality or the municipality's ETJ. If the municipality adopts a fire flow standard exceeding the minimum standards set in paragraph (3) of this subsection, the standard adopted by the municipality must be based on:

(A) the density of connections;

(B) service demands; and

(C) other relevant factors.

(5) If the municipality owns a municipal utility, it may not require another utility located in the municipality or the municipality's ETJ to provide water flow and pressure in a fire hydrant greater than that provided by the municipal utility as determined by the executive director.

(6) If the municipality does not own a municipal utility, it may not require a utility located in the municipality or the municipality's ETJ to provide a minimum sufficient water flow and pressure greater than the standard established by paragraph (3) of this subsection.

(7) An ordinance under paragraph (2) of this subsection may not require a utility to build, retrofit, or improve infrastructure in existence at the time the ordinance is adopted.

(8) A municipality with a population of less than 1.9 million that adopts standards under paragraph (2) of this subsection or that seeks to use a utility's water for emergency fire suppression shall enter into a written memorandum of understanding with the utility.

(A) The memorandum of understanding must provide for:

(i) the necessary testing of fire hydrants; and

(ii) other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with this subsection.

(B) The municipality must submit a signed copy of the memorandum of understanding to the executive director within 60 days of the execution of the memorandum of understanding between its governing body and the utility.

(9) A municipality may notify the executive director of a utility's failure to comply with a standard adopted under paragraph (3) of this subsection.

(10) On receiving the notice described by paragraph (9) of this subsection, the executive director shall require a utility in violation of a standard adopted under this subsection to comply within a reasonable time established by the executive director.

(z) Nitrification Action Plan (NAP). Any water system distributing chloraminated water must create a NAP. The system must create a written NAP that:

(1) contains the system-specific plan for monitoring free ammonia, monochloramine, total chlorine, nitrite, and nitrate levels;

(2) contains system-specific action levels of the above monitored chemicals where action must be taken;

(3) contains specific corrective actions to be taken if the action levels are exceeded; and

(4) is maintained as part of the system's monitoring plan in §290.121 of this title.

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §291.143 and §291.161.

Amended §291.143 and §291.161 are adopted without changes to the proposed text as published in the August 16, 2024 issue of the *Texas Register* (49 TexReg 6165) and, therefore, will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

During the 88th Texas Legislative Session (2023), House Bill (HB) 1500 and HB 4559 passed, and require amendments to 30 Texas Administrative Code (TAC) Chapter 291 to implement the enacted legislation.

Texas Water Code (TWC), §13.4132, enacted in HB 1500, establishes the duration of an emergency order appointing a temporary manager to operate a utility that discontinues operation or is referred for appointment of a receiver.

This rulemaking reflects changes to TWC, §13.1395 enacted in HB 4559, which amended the definition of "affected utility" by changing county population. The amended population maintains the applicability of the counties required to have an Emergency Preparedness Plan (EPP) under TWC, §13.1395 or TWC, §13.1394.

Section by Section Discussion

§291.143 Operation of a Utility by a Temporary Manager.

The commission adopts amended §291.143 to revise the term limit of a temporary manager

from 180 to 360 days, based on the duration of an emergency order, and provide for renewal of the emergency order in accordance with TWC, §13.4132 as amended by HB 1500.

§291.161 Definitions.

The commission adopts amendments to the definition of "affected utility" in §291.161(1)(B)(ii) to change the population from "550,000" to "800,000" in accordance with TWC, §13.1395 as amended by HB 4559. The amended population maintains the applicability of the counties required to have an EPP under TWC, §13.1395 or TWC, §13.1394.

Final Regulatory Impact Determination

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to §2001.0225. A "Major environmental rule" means a rule with a specific intent to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

First, the rulemaking does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking is to provide a duration for an emergency order issued under TWC, §13.4132 and to revise the county population in the definition of affected utility in TWC, §13.1395(a)(1), which applies to those affected utilities

which are required to submit emergency preparedness plans to the commission for review and approval.

Second, the rulemaking does not meet the statutory definition of a "Major environmental rule" because the rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the amendments will not adversely affect in a material way the economy, a sector of the economy, competition, or jobs.

Finally, the rulemaking does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code, §2001.0225(a). Section §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of the preceding four applicability requirements because this rulemaking: does not exceed any standard set by federal law for public water systems; does not exceed any express requirement of state law; does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government; and is not based solely under the general powers of the agency, but under THSC,

§341.031 and §341.0315, which allows the commission to adopt and enforce rules related to public drinking water, as well as under the general powers of the commission.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission evaluated this rulemaking and performed a preliminary assessment of whether these rules constitute a taking under Texas Government Code, Chapter 2007.

The commission adopts these rules to implement HB 1500 and 4559, 88th Texas Legislative session (2023). HB 1500 amended TWC, §13.4132 by establishing a duration of 360 days, with the possibility of renewal, for an emergency order issued to appoint a temporary manager of a water system that ceases operation or is referred for appointment of a receiver. HB 4559 amended TWC, §13.1394(a)(1) by changing the county population in the definition of "affected utility." An affected utility is required to file an emergency preparedness plan with the executive director for review and approval.

The Commission's analysis indicates that Texas Government Code, Chapter §2007, does not apply to these rules based upon exceptions to applicability in Texas Government Code, §2007.003(b). The rulemaking is an action that is taken to fulfill obligations mandated under state law for all of the adopted rules. The rulemaking related to emergency orders and emergency preparedness plans is also an action taken in response to a real and substantial

threat to public health and safety, that is designed to significantly advance the public health and safety purpose, and that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(4) and (13).

First, the rulemaking is an action taken to fulfill obligations under state law. The duration of an emergency order appointing a temporary manager is now established under TWC, §13.4132(b-1), and the change to the county population in the definition of "affected utility" maintains those affected utilities requirements to submit emergency preparedness plans to the commission under TWC, §13.1395(a)(1).

Second, the rulemaking is related to the duration of emergency orders and to the submission of emergency preparedness plans by affected utilities, which are actions that are taken in response to a real and substantial threat to public health and safety. The adopted rules will ensure the continuity of operation of public water systems by temporary managers appointed pursuant to emergency orders with a duration established by the legislature and by ensuring that emergency preparedness plans are submitted by affected utilities in appropriate counties designated by the legislature. The adopted rules will significantly advance the public health and safety purpose; and does not impose a greater burden than is necessary to achieve the public health and safety purpose. These rules advance the public health and safety by ensuring appropriate governmental regulation and do so in a way that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(13).

Further, the commission has determined that promulgation and enforcement of these rules will

be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rules because the rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there will be no reduction in property value as a result of these rules. The rules require compliance regarding the duration of an emergency order appointing a temporary manager as now established under state law, and compliance regarding submission by an affected utility to the commission of its emergency preparedness plan, which is meant to ensure public health and safety. Therefore, the rules will not constitute a taking under Texas Government Code, Chapter §2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rulemaking and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the adopted rulemaking is not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the Coastal Management Program.

Public Comment

The commission held a public hearing on Thursday, September 12, 2024. No oral comments were received at the public hearing. The comment period closed on Tuesday, September 17, 2024. The commission received timely comments on the proposed Chapter §290 rules from

Texas Rural Water Association (TRWA) but received no comments on the proposed Chapter §291 rules.

SUBCHAPTER J: ENFORCEMENT, SUPERVISION, AND RECEIVERSHIP

§291.143

Statutory Authority

The rulemaking is adopted under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the commission's general authority to perform any act necessary to carry out its jurisdiction; TWC, §5.103 and TWC, §5.105, which establish the commission's authority to adopt any rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §341.031, which requires drinking water supplies to meet standards established by the commission; and THSC, §341.0315, which requires public drinking water systems to comply with commission standards established to ensure the supply of safe drinking water.

The rulemaking adoption implements legislation enacted by the 88th Texas Legislature in 2023: TWC, §13.4132 in House Bill (HB) 1500 and TWC, §13.1395(a)(1) in HB 4559.

§291.143. Operation of a Utility by a Temporary Manager.

(a) By emergency order under Texas Water Code (TWC), §5.507 and §13.4132, the commission or the executive director may appoint a person under Chapter 35 of this title (relating to Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions) to temporarily manage and operate a utility that has discontinued or abandoned operations or the provision of services, or which has been or is being referred to the attorney general for the appointment of a receiver under TWC, §13.412.

(b) A person appointed under this section has the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate services to customers, including the power and duty to:

(1) read meters;

(2) bill for utility services;

(3) collect revenues;

(4) disburse funds;

(5) request rate increases if needed;

(6) access all system components;

(7) conduct required sampling;

(8) make necessary repairs; and

(9) perform other acts necessary to assure continuous and adequate utility service as authorized by the commission.

(c) Upon appointment by the commission, the temporary manager will post financial assurance with the commission in an amount and type acceptable to the commission. The temporary manager or the executive director may request waiver of the financial assurance requirements or may request substitution of some other form of collateral as a means of ensuring the continued performance of the temporary manager.

(d) The term of an emergency order issued to appoint a temporary manager may not exceed 360 days. The emergency order may be renewed:

(1) once for a period not to exceed 360 days, or

(2) if the utility is undergoing a sale, transfer, merger, consolidation, or acquisition required to be reported to the Public Utility Commission under Tex. Water Code §13.301, until the sale, transfer, merger, consolidation, or acquisition process is complete.

(e) [(d)] The temporary manager shall serve a term not to exceed 360 [of 180] days, unless:

(1) specified otherwise by the commission;

(2) an extension is requested by the executive director or the temporary manager and granted by the commission under subsection (d) above;

(3) the temporary manager is discharged from his responsibilities by the commission; or

(4) a superseding action is taken by an appropriate court on the appointment of a receiver at the request of the attorney general.

(f) [(e)] Within 60 days after appointment, a temporary manager shall return to the commission an inventory of all property received.

(g) [(f)] Compensation for the temporary manager will come from utility revenues and will be set by the commission at the time of appointment. Changes in the compensation agreement can be approved by the executive director.

(h) [(g)] The temporary manager shall collect the assets and carry on the business of the utility and shall use the revenues and assets of the utility in the best interests of the customers to ensure that continuous and adequate utility service is provided. The temporary manager shall give priority to expenses incurred in normal utility operations and for repairs and improvements made since being appointed temporary manager.

(i) [(h)] The temporary manager shall report to the executive director on a monthly basis. This report shall include:

(1) an income statement for the reporting period;

(2) a summary of utility activities such as improvements or major repairs made, number of connections added, and amount of water produced or treated; and

(3) any other information required by the executive director.

(j) [(i)] During the period in which the utility is managed by the temporary manager, the certificate of convenience and necessity shall remain in the name of the utility owner; however, the temporary manager assumes the obligations for operating within all legal requirements.

SUBCHAPTER L: STANDARDS OF EMERGENCY OPERATIONS

§291.161

Statutory Authority

The rulemaking is adopted under Texas Water Code (TWC) §5.013, which establishes the general jurisdiction of the commission; TWC §5.102, which establishes the commission's general authority to perform any act necessary to carry out its jurisdiction; TWC §5.103 and TWC §5.105, which establish the commission's authority to adopt any rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC) §341.031, which requires drinking water supplies to meet standards established by the commission; and THSC §341.0315, which requires public drinking water systems to comply with commission standards established to ensure the supply of safe drinking water.

The rulemaking adoption implements legislation enacted by the 88th Texas Legislature in 2023: TWC §13.4132 in House Bill (HB) 1500 and TWC §13.1395(a)(1) in HB 4559.

§291.161. Definitions.

For the purposes of this subchapter, the following definitions apply.

(1) Affected utility –

(A) Any retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility as defined in TWC, §13.1394; or

(B) Any retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility as defined in TWC, §13.1395 in a county with a population of:

(i) 3.3 million or more; or

(ii) 800,000 [550,000]or more adjacent to a county with a population of 3.3 million or more.

(2) Emergency operations--The operation of an affected utility during an extended power outage at a minimum water pressure of 20 pounds per square inch (psi), or a water pressure approved by the executive director as required under TWC, §13.1394 or 35 psi as required under TWC, §13.1395.

(3) Extended power outage--A power outage lasting for more than 24 hours.

(4) Population--The population shown by the most recent federal decennial census.

submit data for November and December 2024 at the same time as January 2025 data.

§21.5406. Stakeholder Advisory Group Terms.

(a) Except as otherwise provided in [~~by subsections (b) and (c) of~~] this section, the term of office for seats on the [~~members of the~~] stakeholder advisory group, as specified by [~~designated under~~] Insurance Code §38.403 [~~§38.403(b)(2) - (4)~~], concerning Stakeholder Advisory Group, is [~~serve fixed terms of~~] three years.

(b) Initial terms of office for the members of the stakeholder advisory group will end December 31, 2024.

(c) Subsequent terms of office for the members [~~designations~~] of the stakeholder advisory group will begin January 1, 2025, and will be staggered as follows:

(1) the terms of office for the seats of the two members representing the business community [~~, as provided by Insurance Code §38.403(b)(4)(A),~~] and the two members representing consumers will [~~, as provided by Insurance Code §38.403(b)(4)(B), with terms to~~] expire December 31, 2026;

(2) the terms of office for the seats of the member designated by the Teacher Retirement System of Texas, the[~~;~~] two members representing hospitals, [~~as provided by Insurance Code §38.403(b)(4)(C);~~] and the two members representing health benefit plan issuers will [~~, as provided by Insurance Code §38.403(b)(4)(D), with terms to~~] expire December 31, 2027; and

(3) the terms of office for the seats of the member designated by the Employees Retirement System; the two members representing physicians[~~, as provided by Insurance Code §38.403(b)(4)(E)~~]; and the two members not professionally involved in the purchase, provision, administration, or review of health care services, supplies, or devices, or health benefit plans will [~~, as provided by Insurance Code §38.403(b)(4)(F), with terms to~~] expire December 31, 2028.

(d) The term of office for the seat of a member representing an institution of higher education is one year.

(e) Except as provided by subsection (f) of this section, members may not serve for more than six consecutive years.

(f) [~~(d)~~] If a member does not complete the member's three-year term, a replacement member may [~~must~~] be designated to complete the remainder of the term. [~~A member designated by the Center to serve a partial term of less than two years will not be prevented from serving for an additional two consecutive terms.~~]

~~[(e) Except as provided by subsection (d) of this section, members designated by the Center under Insurance Code §38.403(b)(4) may not serve more than two consecutive terms.]~~

(g) [~~(f)~~] Members and prospective members of the stakeholder advisory group are subject to the conflicts of interest and standards of conduct provisions in paragraphs (1) - (4) of this subsection.

(1) A prospective member of the stakeholder advisory group must disclose to the designating entity any conflict of interest before being designated to the group.

(2) A member of the stakeholder advisory group must immediately disclose to the Center and the member's designating entity any conflict of interest that arises or is discovered while serving on the group.

(3) A conflict of interest means a personal or financial interest that would lead a reasonable person to question the member's objectivity or impartiality. An example of a conflict of interest is employment by or financial interest in an organization with a financial interest in work before the stakeholder advisory group, such as evaluating data requests from qualified research entities under Insurance Code §38.404(e)(2), concerning Establishment and Administration of Database.

(4) A member of the stakeholder advisory group must comply with Government Code §572.051(a), concerning Standards of Conduct; State Agency Ethics Policy, to the same extent as a state officer or employee.

(h) [~~(g)~~] A member may be removed from the stakeholder advisory group for good cause by the member's designating entity.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 2, 2024.

TRD-202403558
Jessica Barta
General Counsel
Texas Department of Insurance
Earliest possible date of adoption: September 15, 2024
For further information, please call: (512) 676-6555

♦ ♦ ♦

TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 290. PUBLIC DRINKING WATER

SUBCHAPTER D. RULES AND REGULATIONS FOR PUBLIC WATER SYSTEMS

30 TAC §§290.38, 290.45, 290.46

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§290.38, 290.45 and 290.46.

Background and Summary of the Factual Basis for the Proposed Rules

During the 88th Texas Legislature (2023), House Bill (HB) 3810, HB 4559, and Senate Bill (SB) 594 passed and require amendments to 30 Texas Administrative Code (TAC) Chapter 290 to implement the enacted legislation.

This rulemaking reflects changes to Texas Health and Safety Code (THSC), §341.033 enacted in HB 3810, requiring nonindustrial water systems to report to the commission an unplanned condition that has caused the system to issue drinking water advisories or a boil water notice. The proposed rules provide a definition of "nonindustrial water system" and "unplanned condition" and address notification requirements.

This rulemaking reflects changes to Texas Water Code (TWC), §13.1395 enacted in HB 4559, which amended the definition of "affected utility" by changing county population. The amended population maintains the applicability of the counties required to have an Emergency Preparedness Plan (EPP) under TWC, §13.1395 or TWC, §13.1394.

This rulemaking reflects changes to THSC, §341.0315 enacted in SB 594, which requires the commission to establish equivalency values for each meter size used to serve a 'recreational vehicle park', as defined by TWC, §13.087, to determine connection count. The proposed rules establish the equivalency value and establish how public water systems calculate alternatives to connection count for recreational vehicle parks that are metered customers of a public water system and have actual water usage more than 10% below the equivalency value.

Section by Section Discussion

§290.38, Definitions

The commission proposes to amend §290.38(3)(B) defining "affected utility," by changing the population from "550,000" to "800,000" in accordance with TWC, §13.1395 as amended by HB 4559. The amended population maintains the applicability of the counties required to have an Emergency Preparedness Plan (EPP) under TWC, §13.1395 or TWC, §13.1394. Specifically, the amendment maintains TWC, §13.1395 applicability to Fort Bend and Harris counties.

The commission proposes to amend §290.38(18), defining "connection," by adding a connection equivalency value as well as the alternative recreational vehicle park connection equivalency for recreational vehicle parks that are retail customers of public water systems. The proposed definition establishes that the number of connections for these recreational vehicle parks is calculated as the number of recreational vehicle or cabin sites divided by eight in accordance with THSC, §341.0315 as amended by SB 594.

§290.45, Minimum Water System Capacity Requirements

The commission proposes new §290.45(j) to establish the process by which a public water system can calculate an alternative recreational vehicle park connection equivalency for recreational vehicle parks that are retail customers of a public water system, to coincide with the amended definition of "connection" in §290.38(18)(B) in accordance with THSC, §341.0315 as amended by SB 594. A table is provided with the Alternative Recreational Vehicle Park Connection Equivalency utilizing significant figures; the calculations are based on source capacity per connection in accordance with TAC §290.45(b) and (c) as well as the definition of maximum daily demand in §290.38.

§290.46, Minimum Acceptable Operating Practices for Public Water Systems

In accordance with THSC, §341.033 as amended by HB 3810, the commission proposes to amend §290.46(w) and add new §290.46(w)(6) to require nonindustrial public water systems to provide the executive director with immediate notification of unplanned conditions resulting in water system outages that result in drinking water advisories or boil water notices and to define "nonindustrial water system" and "unplanned condition" within §290.46(w)(6) to clarify public water system types and situations, respectively.

Fiscal Note: Costs to State and Local Government

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

Public Benefits and Costs

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance and consistency with state law, specifically, HB 3810, HB 4559, and SB 594 from the 88th Texas Legislative Session (2023). The proposed rulemaking is not anticipated to result in significant fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Rural Community Impact Statement

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to §2001.0225. A "major environmental rule" means a rule with a specific intent to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

First, the rulemaking does not meet the statutory definition of a "major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking

is to address unplanned conditions at a nonindustrial public water system that cause an outage or issuance of drinking water advisories or boil water notices; to revise the county population in the definition of affected utility in accordance with TWC, §13.1395(a)(1), which applies to those affected utilities which need to submit emergency preparedness plans to the commission for review and approval; and to meet the legislative requirement for the commission to establish connection equivalency values for each meter size used to serve recreational vehicle parks for use in determining the number of connections served by a public water system.

Second, the rulemaking does not meet the statutory definition of a "major environmental rule" because the rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the amendments will not adversely affect in a material way the economy, a sector of the economy, competition, or jobs.

Finally, the rulemaking does not meet any of the four applicability requirements for a "major environmental rule" listed in Texas Government Code §2001.0225(a). Section §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of the preceding four applicability requirements because this rulemaking: does not exceed any standard set by federal law for public water systems; does not exceed any express requirement of state law; does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government; and is not based solely under the general powers of the agency, but under THSC, §341.031 and §341.0315, which allows the commission to adopt and enforce rules related to public drinking water, as well under the general powers of the commission.

The commission invites public comment regarding the draft Regulatory Impact Analysis Determination.

Takings Impact Assessment

The commission evaluated this rulemaking and performed a preliminary assessment of whether these rules constitute a taking under Texas Government Code, Chapter §2007.

The commission proposes these rules to implement House Bills 3810, 4559 and Senate Bill 594, 88th Texas Legislative Session (2023). HB 3810 amended THSC, §341.033 by requiring nonindustrial public water systems to notify the commission when an unplanned condition caused a public water supply outage or issuance of drinking water advisories or a boil water notice. HB 4559 amended TWC, §13.1394(a)(1) by changing the county population in the definition of "affected utility." An affected utility is required to file an emergency preparedness plan with the executive director for review and approval. SB 594 amended THSC, §341.0315, which requires the commission to adopt rules establishing connection equivalency values for each retail meter size used to serve a recreational vehicle park in calculating connection counts.

The commission's analysis indicates that Texas Government Code, Chapter §2007, does not apply to these rules based upon exceptions to applicability in Texas Government Code, §2007.003(b). The rulemaking is an action that is taken to fulfill obligations mandated under state law for all of the proposed rules. The rulemaking related to emergency preparedness plans is also an action taken in response to a real and substantial threat to public health and safety, that is designed to significantly advance the public health and safety purpose, and that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(4) and (13).

First, the rulemaking is an action taken to fulfill obligations under state law. The law requires actions by the commission and the regulated community when unplanned conditions at a nonindustrial public water system result in a system outage or issuance of drinking water advisories or boil water notices under THSC, §341.033; the change to the county population in the definition of "affected utility" maintains those affected utilities requirements to submit emergency preparedness plans to the commission under TWC, §13.1395a)(1) in the counties where the population has increased passed 500,000; and state law now requires the commission to promulgate rules to establish connection equivalency values for each meter size used to serve a recreational vehicle park for purposes of public water system connection counts under THSC, §341.0315. Texas Government Code, §2007.003(b)(4).

Second, The proposed rules would ensure the emergency preparedness plans are submitted by affected utilities in appropriate counties designated by the legislature. The proposed rules would significantly advance the public health and safety purpose; and do not impose a greater burden than is necessary to achieve the public health and safety purpose. These rules advance the public health and safety by ensuring appropriate governmental regulation and do so in a way that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(13).

Further, the commission has determined that promulgation and enforcement of these rules would be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rule because the rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there would be no reduction in property value as a result of these rules. The rules require compliance with the actions required by nonindustrial public water systems when unplanned conditions result in a system outage or issuance of drinking water advisories or boil water notices; compliance regarding submission by an affected utility to the commission of its emergency preparedness plan, which is meant to ensure public health and safety; and state law requires that connection equivalency values be established for each retail meter size used to serve a recreational vehicle park. Therefore, the rules would not constitute a taking under Texas Government Code, Chapter §2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the amendments affect any action or

authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hold a hybrid virtual and in-person public hearing on this proposal in Austin on September 12, 2024 at 10:00 a.m. in building F; room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 10, 2024. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 11, 2024, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the Hearing, you may do so at no cost at:

https://events.teams.microsoft.com/event/1edc845c-d424-4035-9209-3f5b3eaa3880@871a83a4-a1ce-4b7a-8156-3bcd93a08fba

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or (800) RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Rico, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: https://tceq.commentinput.com/comment/search. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2024-015-290-OW. The comment period closes at 11:59 p.m. on September 17, 2024. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Rheaa Miller, Emergency Preparedness and Response Section, at (512) 239-5728 or by email at rheaa.miller@tceq.texas.gov.

Statutory Authority

The rulemaking is proposed under Texas Water Code (TWC) §5.013, which establishes the general jurisdiction of the commission; TWC §5.102, which establishes the commission's general authority to perform any act necessary to carry out its jurisdiction; TWC §5.103 and TWC §5.105, which establish the commission's authority to adopt any rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC) §341.031, which requires drinking water supplies to meet standards established by the commission; and THSC §341.0315, which requires public drinking water systems to comply with commission standards established to ensure the supply of safe drinking water.

The proposed rulemaking implements legislation enacted by the 88th Texas Legislature in 2023: THSC, §341.033 in House Bill (HB) 3810; TWC, §13.1395(a)(1) in HB 4559; and THSC, §341.0315 in Senate Bill 594.

§290.38. Definitions.

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. If a word or term used in this chapter is not contained in the following list, its definition shall be as shown in 40 Code of Federal Regulations (CFR) §141.2. Other technical terms used shall have the meanings or definitions listed in the latest edition of *The Water Dictionary: A Comprehensive Reference of Water Terminology,* prepared by the American Water Works Association.

(1) Accredited laboratory - A laboratory accredited by the executive director to analyze drinking water samples to determine compliance with maximum contaminant levels, action levels, and microbial contaminants in accordance with §290.119 of this title (relating to Analytical Procedures).

(2) Adverse Weather Conditions - Any significant temperature, wind velocity, accumulation of precipitation including drought, or other weather pattern that may trigger the issuance of a national weather service watch, advisory, or warning.

(3) Affected utility -

(A) A retail public utility (§291.3 of this title (relating to Definitions of Terms)), exempt utility (§291.103 of this title (relating to Certificates Not Required)), or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility as defined in TWC §13.1394; or

(B) A retail public utility (§291.3 of this title (relating to Definitions of Terms)), exempt utility (§291.103 of this title (relating to Certificates Not Required)), or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility, as defined in TWC §13.1395, in a county with a population of:

(i) 3.3 million or more; or

(ii) 800,000 [~~550,000~~] or more adjacent to a county with a population of 3.3 million or more.

(4) Air gap--The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, fixture, receptor, sink, or other assembly and the flood level rim of the receptacle. The vertical, physical separation must be at least twice the diameter of the water supply outlet, but never less than 1.0 inch.

(5) American National Standards Institute (ANSI) standards--The standards of the American National Standards Institute, Inc.

(6) American Society of Mechanical Engineers (ASME) standards--The standards of the ASME.

(7) American Water Works Association (AWWA) standards--The latest edition of the applicable standards as approved and published by the AWWA.

(8) Approved laboratory--A laboratory approved by the executive director to analyze water samples to determine their compliance with treatment technique requirements and maximum or minimum allowable constituent levels in accordance with §290.119 of this title (relating to Analytical Procedures).

(9) ASTM International standards--The standards of ASTM International (formerly known as the American Society for Testing and Materials).

(10) Auxiliary power--Either mechanical power or electric generators which can enable the system to provide water under pressure to the distribution system in the event of a local power failure. With the approval of the executive director, dual primary electric service may be considered as auxiliary power in areas which are not subject to large scale power outages due to natural disasters.

(11) Bag filter--Pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside.

(12) Baseline performance--In reference to a membrane treatment facility, the detailed assessment of observed operational conditions at the time the membrane facility is placed in service for the purpose of tracking changes over time and determining when maintenance or service is required. Examples of parameters where baseline performance data is collected include: net driving pressure, normalized permeate flow, salt rejection, and salt passage.

(13) Cartridge filter--Pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

(14) Certified laboratory--A laboratory certified by the commission to analyze water samples to determine their compliance with maximum allowable constituent levels. After June 30, 2008, laboratories must be accredited, not certified, in order to perform sample analyses previously performed by certified laboratories.

(15) Challenge test--A study conducted to determine the removal efficiency (log removal value) of a device for a particular organism, particulate, or surrogate.

(16) Chemical disinfectant--Any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to the water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

(17) Community water system--A public water system which has a potential to serve at least 15 residential service connections on a year-round basis or serves at least 25 residents on a year-round basis.

(18) Connection--A single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system. As an example, the number of service connections in an apartment complex would be equal to the number of individual apartment units. When enough data is not available to accurately determine the number of connections to be served or being served, the population served divided by three will be used as the number of connections for calculating system capacity requirements. Conversely, if only the number of connections is known, the connection total multiplied by three will be the number used for population served. For the purposes of this definition: [~~definition,~~]

(A) a dwelling or business which is connected to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection if:

(i) [~~(A)~~] the water is used exclusively for purposes other than those defined as human consumption (see human consumption);

(ii) [~~(B)~~] the executive director determines that alternative water to achieve the equivalent level of public health protection provided by the drinking water standards is provided for residential or similar human consumption, including, but not limited to, drinking and cooking; or

(iii) [~~(C)~~] the executive director determines that the water provided for residential or similar human consumption is centrally treated or is treated at the point of entry by a provider, a pass through entity, or the user to achieve the equivalent level of protection provided by the drinking water standards.

(B) For a recreational vehicle park, as defined by Texas Water Code, §13.087(a)(3), that is a retail customer of a public water system, the number of connections shall be calculated as:

(i) the number of recreational vehicle sites or cabin sites, whether occupied or not, divided by eight; or

(ii) the number of recreational vehicle sites or cabin sites, whether occupied or not, divided by the alternative recreational vehicle park connection equivalency specified in §290.45(j) of this title (relating to Minimum Water System Capacity Requirements).

(19) Contamination--The presence of any foreign substance (organic, inorganic, radiological, or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water.

(20) Cross-connection--A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

(21) Direct integrity test--A physical test applied to a membrane unit in order to identify and isolate integrity breaches/leaks that could result in contamination of the filtrate.

(22) Disinfectant--A chemical or a treatment which is intended to kill or inactivate pathogenic microorganisms in water.

(23) Disinfection--A process which inactivates pathogenic organisms in the water by chemical oxidants or equivalent agents.

(24) Distribution system--A system of pipes that conveys potable water from a treatment plant to the consumers. The term includes pump stations, ground and elevated storage tanks, potable water mains, and potable water service lines and all associated valves, fittings, and meters, but excludes potable water customer service lines.

(25) Drinking water--All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "drinking water" shall also include all water supplied for human consumption or used by any institution catering to the public.

(26) Drinking water standards--The commission rules covering drinking water standards in Subchapter F of this chapter (relating

to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).

(27) Elevated storage capacity--That portion of water which can be stored at least 80 feet above the highest service connection in the pressure plane served by the storage tank.

(28) Emergency operations--The operation of an affected utility during an extended power outage at a minimum water pressure of 20 pounds per square inch (psi) or a pressure approved by the executive director as required under TWC §13.1394 and 35 psi as required under TWC §13.1395.

(29) Emergency power--Either mechanical power or electric generators which can enable the system to provide water under pressure to the distribution system in the event of a local power failure. With the approval of the executive director, dual primary electric service may be considered as emergency power in areas which are not subject to large scale power outages due to natural disasters.

(30) Extended power outage--A power outage lasting for more than 24 hours.

(31) Filtrate--The water produced from a filtration process; typically used to describe the water produced by filter processes such as membranes.

(32) Flux--The throughput of a pressure-driven membrane filtration system expressed as flow per unit of membrane area. For example, gallons per square foot per day or liters per hour per square meter.

(33) Grantee--For purposes of this chapter, any person receiving an ownership interest in a public water system, whether by sale, transfer, descent, probate, or otherwise.

(34) Grantor--For purposes of this chapter, any person who conveys an ownership interest in a public water system, whether by sale, transfer, descent, probate, or otherwise.

(35) Groundwater--Any water that is located beneath the surface of the ground and is not under the direct influence of surface water.

(36) Groundwater under the direct influence of surface water--Any water beneath the surface of the ground with:

(A) significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium;*

(B) significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions; or

(C) site-specific characteristics including measurements of water quality parameters, well construction details, existing geological attributes, and other features that are similar to groundwater sources that have been identified by the executive director as being under the direct influence of surface water.

(37) Health hazard--A cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.

(38) Human consumption--Uses by humans in which water can be ingested into or absorbed by the human body. Examples of these uses include, but are not limited to drinking, cooking, brushing teeth, bathing, washing hands, washing dishes, and preparing foods.

(39) Indirect integrity monitoring--The monitoring of some aspect of filtrate water quality, such as turbidity, that is indicative of the removal of particulate matter.

(40) Innovative/alternate treatment--Any treatment process that does not have specific design requirements in §290.42(a) - (f) of this title (relating to Water Treatment).

(41) Interconnection--A physical connection between two public water supply systems.

(42) International Fire Code (IFC)--The standards of the International Code Council.

(43) Intruder-resistant fence--A fence six feet or greater in height, constructed of wood, concrete, masonry, or metal with three strands of barbed wire extending outward from the top of the fence at a 45 degree angle with the smooth side of the fence on the outside wall. In lieu of the barbed wire, the fence must be eight feet in height. The fence must be in good repair and close enough to surface grade to prevent intruder passage.

(44) L/d ratio--The dimensionless value that is obtained by dividing the length (depth) of a granular media filter bed by the weighted effective diameter "d" of the filter media. The weighted effective diameter of the media is calculated based on the percentage of the total bed depth contributed by each media layer.

(45) Licensed professional engineer--An engineer who maintains a current license through the Texas Board of Professional Engineers in accordance with its requirements for professional practice.

(46) Log removal value (LRV)--Removal efficiency for a target organism, particulate, or surrogate expressed as log10 (i.e., log10 (feed concentration) - log10 (filtrate concentration)).

(47) Maximum contaminant level (MCL)--The MCL for a specific contaminant is defined in the section relating to that contaminant.

(48) Maximum daily demand--In the absence of verified historical data or in cases where a public water system has imposed mandatory water use restrictions within the past 36 months, maximum daily demand means 2.4 times the average daily demand of the system.

(49) Membrane filtration--A pressure or vacuum driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test; includes the following common membrane classifications microfiltration (MF), ultrafiltration (UF), nanofiltration (NF), and reverse osmosis (RO), as well as any "membrane cartridge filtration" (MCF) device that satisfies this definition.

(50) Membrane LRVC-Test --The number that reflects the removal efficiency of the membrane filtration process demonstrated during challenge testing. The value is based on the entire set of log removal values (LRVs) obtained during challenge testing, with one representative LRV established per module tested.

(51) Membrane module--The smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(52) Membrane sensitivity--The maximum log removal value that can be reliably verified by a direct integrity test.

(53) Membrane unit--A group of membrane modules that share common valving, which allows the unit to be isolated from the

rest of the system for the purpose of integrity testing or other maintenance.

(54) Milligrams per liter (mg/L)--A measure of concentration, equivalent to and replacing parts per million in the case of dilute solutions.

(55) Monthly reports of water works operations--The daily record of data relating to the operation of the system facilities compiled in a monthly report.

(56) National Fire Protection Association (NFPA) standards--The standards of the NFPA.

(57) NSF International--The organization and the standards, certifications, and listings developed by NSF International (formerly known as the National Sanitation Foundation) related to drinking water.

(58) Noncommunity water system--Any public water system which is not a community system.

(59) Nonhealth hazard--A cross-connection, potential contamination hazard, or other situation involving any substance that generally will not be a health hazard, but will constitute a nuisance, or be aesthetically objectionable, if introduced into the public water supply.

(60) Nontransient, noncommunity water system--A public water system that is not a community water system and regularly serves at least 25 of the same persons at least six months out of the year.

(61) Pass--In reference to a reverse osmosis or nanofiltration membrane system, stages of pressure vessels in series in which the permeate from one stage is further processed in a following stage.

(62) Peak hourly demand--In the absence of verified historical data, peak hourly demand means 1.25 times the maximum daily demand (prorated to an hourly rate) if a public water supply meets the commission's minimum requirements for elevated storage capacity and 1.85 times the maximum daily demand (prorated to an hourly rate) if the system uses pressure tanks or fails to meet the commission's minimum elevated storage capacity requirement.

(63) Plumbing inspector--Any person employed by a political subdivision for the purpose of inspecting plumbing work and installations in connection with health and safety laws and ordinances, who has no financial or advisory interest in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Texas State Board of Plumbing Examiners.

(64) Plumbing ordinance--A set of rules governing plumbing practices which is at least as stringent and comprehensive as one of the following nationally recognized codes:

(A) the International Plumbing Code; or

(B) the Uniform Plumbing Code.

(65) Potable water customer service line--The sections of potable water pipe between the customer's meter and the customer's point of use.

(66) Potable water main--A pipe or enclosed constructed conveyance operated by a public water system which is used for the transmission or distribution of drinking water to a potable water service line.

(67) Potable water service line--The section of pipe between the potable water main and the customer's side of the water meter. In cases where no customer water meter exists, it is the section of pipe that is under the ownership and control of the public water system.

(68) Potential contamination hazard--A condition which, by its location, piping or configuration, has a reasonable probability of being used incorrectly, through carelessness, ignorance, or negligence, to create or cause to be created a backflow condition by which contamination can be introduced into the water supply. Examples of potential contamination hazards are:

(A) bypass arrangements;

(B) jumper connections;

(C) removable sections or spools; and

(D) swivel or changeover assemblies.

(69) Process control duties--Activities that directly affect the potability of public drinking water, including: making decisions regarding the day-to-day operations and maintenance of public water system production and distribution; maintaining system pressures; determining the adequacy of disinfection and disinfection procedures; taking routine microbiological samples; taking chlorine residuals and microbiological samples after repairs or installation of lines or appurtenances; and operating chemical feed systems, filtration, disinfection, or pressure maintenance equipment; or performing other duties approved by the executive director.

(70) psi--Pounds per square inch.

(71) Public drinking water program--Agency staff designated by the executive director to administer the Safe Drinking Water Act and state statutes related to the regulation of public drinking water. Any report required to be submitted in this chapter to the executive director must be submitted to the Texas Commission on Environmental Quality, Water Supply Division, MC 155, P.O. Box 13087, Austin, Texas 78711-3087.

(72) Public health engineering practices--Requirements in this chapter or guidelines promulgated by the executive director.

(73) Public water system--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. This term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(74) Quality Control Release Value (QCRV)--A minimum quality standard of a non-destructive performance test established by the manufacturer for membrane module production that ensures that the module will attain the targeted log removal value demonstrated during challenge testing.

(75) Reactor Validation Testing--A process by which a full-scale ultraviolet (UV) reactor's disinfection performance is determined relative to operating parameters that can be monitored. These param-

eters include flow rate, UV intensity as measured by a UV sensor and the UV lamp status.

(76) Resolution--The size of the smallest integrity breach that contributes to a response from a direct integrity test in membranes used to treat surface water or groundwater under the direct influence of surface water.

(77) Sanitary control easement--A legally binding document securing all land, within 150 feet of a public water supply well location, from pollution hazards. This document must fully describe the location of the well and surrounding lands and must be filed in the county records to be legally binding. For an example, see commission Form 20698.

(78) Sanitary survey--An onsite review of a public water system's adequacy for producing and distributing safe drinking water by evaluating the following elements: water source; treatment; distribution system; finished water storage; pump, pump facilities, and controls; monitoring, reporting, and data verification; system management, operation and maintenance; and operator compliance.

(79) Sensitivity--The maximum log removal value (LRV) that can be reliably verified by a direct integrity test in membranes used to treat surface water or groundwater under the direct influence of surface water; also applies to some continuous indirect integrity monitoring methods.

(80) Service line--A pipe connecting the utility service provider's main and the water meter, or for wastewater, connecting the main and the point at which the customer's service line is connected, generally at the customer's property line.

(81) Service pump--Any pump that takes treated water from storage and discharges to the distribution system.

(82) Significant deficiency--Significant deficiencies cause, or have the potential to cause, the introduction of contamination into water delivered to customers. This may include defects in design, operation, or maintenance of the source, treatment, storage, or distribution systems.

(83) Stage--In reference to a reverse osmosis or nanofiltration membrane system, a set of pressure vessels installed in parallel.

(84) System--Public water system as defined in this section unless otherwise modified (i.e., distribution system).

(85) Transfer pump--Any pump which conveys water from one point to another within the treatment process or which conveys water to storage facilities prior to distribution.

(86) Transient, noncommunity water system--A public water system that is not a community water system and serves at least 25 persons at least 60 days out of the year, yet by its characteristics, does not meet the definition of a nontransient, noncommunity water system.

(87) Vessel--In reference to a reverse osmosis or nanofiltration membrane system, a cylindrical housing unit where membrane modules are placed in a series to form one unit.

(88) Wastewater lateral--Any pipe or constructed conveyance carrying wastewater, running laterally down a street, alley, or easement, and receiving flow only from the abutting properties.

(89) Wastewater main--Any pipe or constructed conveyance which receives flow from one or more wastewater laterals.

(90) Water system--Public water system as defined in this section unless otherwise modified (i.e., distribution system).

§290.45. Minimum Water System Capacity Requirements.

(a) General provisions.

(1) The requirements contained in this section are to be used in evaluating both the total capacities for public water systems and the capacities at individual pump stations and pressure planes which serve portions of the system that are hydraulically separated from, or incapable of being served by, other pump stations or pressure planes. The capacities specified in this section are minimum requirements only and do not include emergency fire flow capacities for systems required to meet requirements contained in §290.46(x) and (y) of this title (relating to Minimum Acceptable Operating Practices for Public Drinking Water Systems).

(2) The executive director will require additional supply, storage, service pumping, and pressure maintenance facilities if a normal operating pressure of 35 pounds per square inch (psi) cannot be maintained throughout the system, or if the system's maximum daily demand exceeds its total production and treatment capacity. The executive director will also require additional capacities for a system that is unable to maintain a minimum pressure of 20 psi during firefighting, line flushing, other unusual conditions, and systems that are required to provide fire flow as specified in §290.46(x) and (y) of this title.

(3) The executive director may establish additional capacity requirements for a public water system using the method of calculation described in subsection (g)(2) of this section if there are repeated customer complaints regarding inadequate pressure or if the executive director receives a request for a capacity evaluation from customers of the system.

(4) Throughout this section, total storage capacity does not include pressure tank capacity.

(5) The executive director may exclude the capacity of facilities that have been inoperative for the past 120 days and will not be returned to an operative condition within the next 30 days when determining compliance with the requirements of this section.

(6) The capacity of the treatment facilities shall not be less than the required raw water or groundwater production rate or the anticipated maximum daily demand of the system. The production capacity of a reverse osmosis or nanofiltration membrane system shall be the quantity of permeate water after post-treatment that can be delivered to the distribution system. The amount available for customer use must consider:

(A) the quantity of feed water discharged to waste;

(B) the quantity of bypass water used for blending;

(C) the quantity of permeate water used for cleaning and maintenance; and

(D) any other loss of raw water or groundwater available for use due to other processes at the reverse osmosis or nanofiltration facility.

(7) If a public water system that is an affected utility fails to provide a minimum of 20 psi or a pressure approved by the executive director, or 35 psi, as required by TWC §13.1394 and §13.1395 respectively, throughout the distribution system during emergency operations as soon as it is safe and practicable following the occurrence of a natural disaster, a revised emergency preparedness plan or justification regarding pressure drop shall be submitted for review and approval within 180 days of the date normal power is restored. Based on the review of the revised emergency preparedness plan, the executive director may require additional or alternative auxiliary emergency facilities.

(8) A public water system that is an affected utility is required to review its emergency preparedness plan once every three years. An affected utility shall submit a new or revised emergency preparedness plan to the executive director for approval within 90 days after any of the following conditions occur:

(A) An affected utility chooses to implement a different option or options other than those in the most recent approved emergency preparedness plan;

(B) A previously non-affected utility meets the definition of an affected utility;

(C) An affected utility makes a significant change as described in §290.39(j) of this title that affects emergency operations; or

(D) An affected utility makes changes to utility contact or emergency communications information. For these changes, the affected utility must submit only the updated applicable pages of the emergency preparedness plan to the executive director.

(b) Community water systems.

(1) Groundwater supplies must meet the following requirements.

(A) If fewer than 50 connections without ground storage, the system must meet the following requirements:

(i) a well capacity of 1.5 gallons per minute (gpm) per connection; and

(ii) a pressure tank capacity of 50 gallons per connection.

(B) If fewer than 50 connections with ground storage, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more service pumps having a total capacity of 2.0 gpm per connection; and

(iv) a pressure tank capacity of 20 gallons per connection.

(C) For 50 to 250 connections, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required; and

(iv) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection.

(D) For more than 250 connections, the system must meet the following requirements:

(i) two or more wells having a total capacity of 0.6 gpm per connection. Where an interconnection is provided with another acceptable water system capable of supplying at least 0.35 gpm for each connection in the combined system under emergency conditions, an additional well will not be required as long as the 0.6 gpm per connection requirement is met for each system on an individual basis. Each water system must still meet the storage and pressure maintenance requirements on an individual basis unless the interconnection is permanently open. In this case, the systems' capacities will be rated as though a single system existed;

(ii) a total storage capacity of 200 gallons per connection;

(iii) two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required;

(iv) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for up to 2,500 connections. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met; and

(v) emergency power for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient emergency power must be provided to deliver a minimum of 0.35 gpm per connection and meet minimum pressure requirements to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has emergency power and is able to supply at least 0.35 gpm for each connection in the combined system. Emergency power must be maintained as required by §290.46(m)(8) of this title.

(E) Mobile home parks with a density of eight or more units per acre and apartment complexes which supply fewer than 100 connections without ground storage must meet the following requirements:

(i) a well capacity of 1.0 gpm per connection; and

(ii) a pressure tank capacity of 50 gallons per connection with a maximum of 2,500 gallons required.

(F) Mobile home parks and apartment complexes which supply 100 connections or greater, or fewer than 100 connections and utilize ground storage must meet the following requirements:

(i) a well capacity of 0.6 gpm per connection. Systems with 250 or more connections must have either two wells or an approved interconnection which is capable of supplying at least 0.35 gpm for each connection in the combined system;

(ii) a total storage of 200 gallons per connection;

(iii) at least two service pumps with a total capacity of 2.0 gpm per connection; and

(iv) a pressure tank capacity of 20 gallons per connection.

(2) Surface water supplies must meet the following requirements:

(A) a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service;

(B) a treatment plant capacity of 0.6 gpm per connection under normal rated design flow;

(C) transfer pumps (where applicable) with a capacity of 0.6 gpm per connection with the largest pump out of service;

(D) a covered clearwell storage capacity at the treatment plant of 50 gallons per connection or, for systems serving more than 250 connections, 5.0% of daily plant capacity;

(E) a total storage capacity of 200 gallons per connection;

(F) a service pump capacity that provides each pump station or pressure plane with two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required at each pump station or pressure plane;

(G) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for systems of up to 2,500 connections. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met; and

(H) emergency power for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient emergency power must be provided to deliver a minimum of 0.35 gpm per connection and meet minimum pressure requirements to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has emergency power and is able to supply at least 0.35 gpm for each connection in the combined system. Emergency power must be maintained as required by §290.46(m)(8) of this title.

(3) Any community public water system that is an affected utility, defined in TWC §13.1394 or §13.1395 shall have an emergency preparedness plan approved by the executive director and must meet the requirements for emergency operations contained in subsection (h) or (i) of this section. This includes any affected utility that provides 100 gallons of elevated storage capacity per connection.

(c) Noncommunity water systems serving transient accommodation units. The following water capacity requirements apply to noncommunity water systems serving accommodation units such as hotel rooms, motel rooms, travel trailer spaces, campsites, and similar accommodations.

(1) Groundwater supplies must meet the following requirements.

(A) If fewer than 100 accommodation units without ground storage, the system must meet the following requirements:

(i) a well capacity of 1.0 gpm per unit; and

(ii) a pressure tank capacity of ten gallons per unit with a minimum of 220 gallons.

(B) For systems serving fewer than 100 accommodation units with ground storage or serving 100 or more accommodation units, the system must meet the following requirements:

(i) a well capacity of 0.6 gpm per unit;

(ii) a ground storage capacity of 35 gallons per unit;

(iii) two or more service pumps which have a total capacity of 1.0 gpm per unit; and

(iv) a pressure tank capacity of ten gallons per unit.

(2) Surface water supplies, regardless of size, must meet the following requirements:

(A) a raw water pump capacity of 0.6 gpm per unit with the largest pump out of service;

(B) a treatment plant capacity of 0.6 gpm per unit;

(C) a transfer pump capacity (where applicable) of 0.6 gpm per unit with the largest pump out of service;

(D) a ground storage capacity of 35 gallons per unit with a minimum of 1,000 gallons as clearwell capacity;

(E) two or more service pumps with a total capacity of 1.0 gpm per unit; and

(F) a pressure tank capacity of ten gallons per unit with a minimum requirement of 220 gallons.

(3) A noncommunity public water system that is an affected utility, defined in TWC §13.1394 or §13.1395 shall meet the requirements of subsection (h) or (i) of this section.

(d) Noncommunity water systems serving other than transient accommodation units.

(1) The following table is applicable to paragraphs (2) and (3) of this subsection and shall be used to determine the maximum daily demand for the various types of facilities listed.
Figure: 30 TAC §290.45(d)(1) (No change.)

(2) Groundwater supplies must meet the following requirements.

(A) Subject to the requirements of subparagraph (B) of this paragraph, if fewer than 300 persons per day are served, the system must meet the following requirements:

(i) a well capacity which meets or exceeds the maximum daily demand of the system during the hours of operation; and

(ii) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(B) Systems which serve 300 or more persons per day or serve fewer than 300 persons per day and provide ground storage must meet the following requirements:

(i) a well capacity which meets or exceeds the maximum daily demand;

(ii) a ground storage capacity which is equal to 50% of the maximum daily demand;

(iii) if the maximum daily demand is less than 15 gpm, at least one service pump with a capacity of three times the maximum daily demand;

(iv) if the maximum daily demand is 15 gpm or more, at least two service pumps with a total capacity of three times the maximum daily demand; and

(v) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(3) Each surface water supply or groundwater supply that is under the direct influence of surface water, regardless of size, must meet the following requirements:

(A) a raw water pump capacity which meets or exceeds the maximum daily demand of the system with the largest pump out of service;

(B) a treatment plant capacity which meets or exceeds the system's maximum daily demand;

(C) a transfer pump capacity (where applicable) sufficient to meet the maximum daily demand with the largest pump out of service;

(D) a clearwell capacity which is equal to 50% of the maximum daily demand;

(E) two or more service pumps with a total capacity of three times the maximum daily demand; and

(F) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the executive director.

(4) A noncommunity public water system that is an affected utility, defined in TWC §13.1394 or §13.1395, shall meet the requirements of subsection (h) or (i) of this section.

(e) Water wholesalers. The following additional requirements apply to systems which supply wholesale treated water to other public water supplies.

(1) All wholesalers must provide enough production, treatment, and service pumping capacity to meet or exceed the combined maximum daily commitments specified in their various contractual obligations. If a contract prohibits a purchaser from securing water from sources other than the contracted wholesaler during emergency operations, the wholesaler is responsible for meeting applicable capacity requirements.

(2) For wholesale water suppliers, minimum water system capacity requirements shall be determined by calculating the requirements based upon the number of retail customer service connections of that wholesale water supplier, if any, fire flow capacities, if required by §290.46(x) and (y) of this title and adding that amount to the maximum amount of water obligated or pledged under all wholesale contracts.

(3) Emergency power is required for each portion of the system which supplies more than 250 connections under direct pressure and does not provide an elevated storage capacity of at least 100 gallons per connection. If emergency power is required, it must be sufficient to deliver 20% of the minimum required service pump capacity and meet minimum pressure requirements in the event of the loss of normal power supply. When the wholesaler provides water through an air gap into the purchaser's storage facilities it will be the purchaser's responsibility to meet all minimum water system capacity requirements including emergency power. For wholesale contracts executed or amended on or after January 1, 2025, the contract must specify if the wholesaler will supply water, pressure, or both water and pressure during emergency operations to comply with TWC §13.1394 or §13.1395.

(4) A wholesaler that is an affected utility, defined in TWC §13.1394 or §13.1395, must meet the requirements specified in subsection (h) or (i) of this section.

(f) Purchased water systems. The following requirements apply only to systems which purchase treated water to meet all or part of their production, storage, service pump, or pressure maintenance capacity requirements.

(1) The water purchase contract must be available to the executive director in order that production, storage, service pump, or pressure maintenance capacity may be properly evaluated. For purposes of this section, a contract may be defined as a signed written document of specific terms agreeable to the water purchaser and the water wholesaler, or in its absence, a memorandum or letter of understanding between the water purchaser and the water wholesaler.

(2) The contract shall authorize the purchase of enough water to meet the monthly or annual needs of the purchaser.

(3) The contract shall also establish the maximum rate at which water may be drafted on a daily and hourly basis. In the absence of specific maximum daily or maximum hourly rates in the contract, a uniform purchase rate for the contract period will be used.

(4) The maximum authorized daily purchase rate specified in the contract, or a uniform purchase rate in the absence of a specified daily purchase rate, plus the actual production capacity of the system must be at least 0.6 gpm per connection.

(5) For systems which purchase water under direct pressure, the maximum hourly purchase authorized by the contract plus the actual service pump capacity of the system must be at least 2.0 gpm per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less.

(6) The purchaser is responsible for meeting all capacity requirements. If additional capacity to meet increased demands cannot be attained from the wholesaler through a new or amended contract, additional capacity must be obtained from water purchase contracts with other entities, new wells, or surface water treatment facilities. However, if the water purchase contract prohibits the purchaser from securing water from sources other than the wholesaler, the wholesaler is responsible for meeting applicable capacity requirements. For wholesale contracts executed or amended on or after January 1, 2025, the contract must specify if the wholesaler will supply water, pressure, or both water and pressure during emergency operations to comply with TWC §13.1394 or §13.1395.

(7) All other minimum capacity requirements specified in this section and §290.46(x) and (y) of this title shall apply.

(g) Alternative capacity requirements. Public water systems may request approval to meet alternative capacity requirements in lieu of the minimum capacity requirements specified in this section. Any water system requesting to use an alternative capacity requirement must demonstrate to the satisfaction of the executive director that approving the request will not compromise the public health or result in a degradation of service or water quality and comply with the requirements found in §290.46(x) and (y) of this title. Alternative capacity requirements are unavailable for groundwater systems serving fewer than 50 connections without total storage as specified in subsection (b)(1) of this section or for noncommunity water systems as specified in subsections (c) and (d) of this section.

(1) Alternative capacity requirements for public water systems may be granted upon request to and approval by the executive director. The request to use an alternative capacity requirement must include:

(A) a detailed inventory of the major production, pressurization, and storage facilities utilized by the system;

(B) records kept by the water system that document the daily production of the system. The period reviewed shall not be less than three years. The applicant may not use a calculated peak daily demand;

(C) data acquired during the last drought period in the region, if required by the executive director;

(D) the actual number of active connections for each month during the three years of production data;

(E) description of any unusual demands on the system such as fire flows or major main breaks that will invalidate unusual peak demands experienced in the study period;

(F) any other relevant data needed to determine that the proposed alternative capacity requirement will provide at least 35 psi in the public water system except during line repair or during firefighting when it cannot be less than 20 psi; and

(G) a copy of all data relied upon for making the proposed determination.

(2) Alternative capacity requirements for existing public water systems must be based upon the maximum daily demand for the system, unless the request is submitted by a licensed professional engineer in accordance with the requirements of paragraph (3) of this subsection. The maximum daily demand must be determined based upon the daily usage data contained in monthly operating reports for the system during a 36 consecutive month period. The 36 consecutive month period must end within 90 days of the date of submission to ensure the data is as current as possible.

(A) Maximum daily demand is the greatest number of gallons, including groundwater, surface water, and purchased water delivered by the system during any single day during the review period. Maximum daily demand excludes unusual demands on the system such as fire flows or major main breaks.

(B) For the purpose of calculating alternative capacity requirements, an equivalency ratio must be established. This equivalency ratio must be calculated by multiplying the maximum daily demand, expressed in gpm per connection, by a fixed safety factor and dividing the result by 0.6 gpm per connection. The safety factor shall be 1.15 unless it is documented that the existing system capacity is adequate for the next five years. In this case, the safety factor may be reduced to 1.05. The conditions in §291.93(3) of this title (relating to Adequacy of Water Utility Service) concerning the 85% rule shall continue to apply to public water systems that are also retail public utilities.

(C) To calculate the alternative capacity requirements, the equivalency ratio must be multiplied by the appropriate minimum capacity requirements specified in subsection (b) of this section. Standard rounding methods are used to round calculated alternative production capacity requirement values to the nearest one-hundredth.

(3) Alternative capacity requirements which are proposed and submitted by licensed professional engineers for review are subject to the following additional requirements.

(A) A signed and sealed statement by the licensed professional engineer must be provided which certifies that the proposed alternative capacity requirements have been determined in accordance with the requirements of this subsection.

(B) If the system is new or at least 36 consecutive months of data is not available, maximum daily demand may be based upon at least 36 consecutive months of data from a comparable public water system. A licensed professional engineer must certify that the data from another public water system is comparable based on consideration of the following factors: prevailing land use patterns (rural versus urban); number of connections; density of service populations; fire flow obligations; and socio-economic, climatic, geographic, and topographic considerations as well as other factors as may be relevant. The comparable public water system shall not exhibit any of the conditions listed in paragraph (6)(A) of this subsection.

(4) The executive director shall consider requests for alternative capacity requirements in accordance with the following requirements.

(A) For those requests submitted under the seal of a licensed professional engineer, the executive director must mail written acceptance or denial of the proposed alternative capacity requirements to the public water system within 90 days from the date of submission. If the executive director fails to mail written notification within 90 days, the alternative capacity requirements submitted by a licensed professional engineer automatically become the alternative capacity requirements for the public water system.

(B) If the executive director denies the request:

(i) the executive director shall mail written notice to the public water system identifying the specific reason or reasons for denial and allow 45 days for the public water system to respond to the reason(s) for denial;

(ii) the denial is final if no response from the public water system is received within 45 days of the written notice being mailed; and

(iii) the executive director must mail a final written approval or denial within 60 days from the receipt of any response timely submitted by the public water system.

(5) Although elevated storage is the preferred method of pressure maintenance for systems of over 2,500 connections, it is recognized that local conditions may dictate the use of alternate methods utilizing hydropneumatic tanks and on-site emergency power equipment. Alternative capacity requirements to the elevated storage requirements may be obtained based on request to and approval by the executive director. Special conditions apply to systems qualifying for an elevated storage alternative capacity requirement.

(A) The system must submit documentation sufficient to assure that the alternate method of pressure maintenance is capable of providing a safe and uninterrupted supply of water under pressure to the distribution system during all demand conditions.

(i) A signed and sealed statement by a licensed professional engineer must be provided which certifies that the pressure maintenance facilities are sized, designed, and capable of providing a minimum pressure of at least 35 psi at all points within the distribution network at flow rates of 1.5 gpm per connection or greater. In addition, the engineer must certify that the emergency power facilities are capable of providing the greater of the average daily demand or 0.35 gpm per connection while maintaining distribution pressures of at least 20 psi or a pressure approved by the executive director, or 35 psi, as required by TWC §13.1394 and §13.1395, respectively, and that emergency power facilities powering production and treatment facilities are capable of supplying at least 0.35 gpm per connection to storage.

(ii) The system's licensed professional engineer must conduct a hydraulic analysis of the system under peak conditions. This must include an analysis of the time lag between the loss of the normal power supply and the commencement of emergency power as well as the minimum pressure that will be maintained within the distribution system during this time lag. In no case shall this minimum

pressure within the distribution system be less than 20 psi. The results of this analysis must be submitted to the executive director for review.

(iii) For existing systems, the system's licensed professional engineer must provide continuous pressure chart recordings of distribution pressures maintained during past power failures, if available. The period reviewed shall not be less than three years.

(iv) A public water system that is an affected utility, defined in TWC §13.1394 or §13.1395, must conduct the modeling requirements contained in clauses (i) - (iii) of this subparagraph using the requirements specified in subsection (h) or (i) of this section.

(B) Emergency power facilities must be maintained and provided with necessary appurtenances to assure immediate and dependable operation in case of normal power interruption. A public water system that is an affected utility, defined in TWC §13.1394 or §13.1395, must meet the requirements specified in subsection (h) or (i) of this section.

(i) The facilities must be serviced and maintained in accordance with Level 2 maintenance requirements contained in the current NFPA 110 Standard and the manufacturers' recommendations if the affected utility serves 1,000 connections or greater, or in accordance with manufacturer's recommendations and as prescribed in §290.46(m)(8) of this title if the affected utility serves fewer than 1,000 connections.

(ii) The switching gear must be capable of bringing the emergency power generating equipment on-line during a power interruption such that the pressure in the distribution network does not fall below 20 psi or a pressure approved by the executive director, or 35 psi, as required by TWC §13.1394 and §13.1395, respectively.

(iii) The minimum on-site fuel storage capacity shall be determined by the fuel demand of the emergency power facilities and the frequency of fuel delivery. An amount of fuel equal to that required to operate the emergency power facilities during emergency operations for a period of at least 48 hours must always be maintained on site or made readily available.

(iv) Residential rated mufflers or other means of effective noise suppression must be provided on each emergency power motor.

(C) Battery-powered or uninterrupted power supply pressure monitors and chart recorders which are configured to activate immediately upon loss of normal power must be provided for pressure maintenance facilities. These records must be kept for a minimum of three years and made available for review by the executive director. Records must include chart recordings of all power interruptions including interruptions due to periodic emergency power under-load testing and maintenance.

(6) Any alternative capacity requirement granted under this subsection is subject to review and revocation or revision by the executive director. If permission to use an alternative capacity requirement is revoked, the public water system must meet the applicable minimum capacity requirements of this section.

(A) The following conditions, if attributable to the alternative capacity requirements, may constitute grounds for revocation or revision of established alternative capacity requirements or for denial of new requests, if the condition occurred within the last 36 months:

(i) documented pressure below 35 psi at any time not related to line repair, except during firefighting when it cannot be less than 20 psi;

(ii) water outages due to high water usage;

(iii) mandatory water rationing due to high customer demand or overtaxed water production or supply facilities;

(iv) failure to meet a minimum capacity requirement or an established alternative capacity requirement;

(v) changes in water supply conditions or usage patterns which create a potential threat to public health; or

(vi) any other condition where the executive director finds that the alternative capacity requirement has compromised public health or resulted in a degradation of service or water quality.

(B) If the executive director finds any of the conditions specified in subparagraph (A) of this paragraph, the process for revocation or revision of an alternative capacity requirement shall be as follows, unless the executive director finds that failure of the service or other threat to public health and safety is imminent under subparagraph (C) of this paragraph.

(i) The executive director must mail the public drinking water system written notice of the executive director's intent to revoke or revise an alternative capacity requirement identifying the specific reason(s) for the proposed action.

(ii) The public water system has 30 days from the date the written notice is mailed to respond to the proposed action.

(iii) The public water system has 30 days from the date the written notice is mailed to request a meeting with the agency's public drinking water program personnel to review the proposal. If requested, such a meeting must occur within 45 days of the date the written notice is mailed.

(iv) After considering any response from or after any requested meeting with the public drinking water system, the executive director must mail written notification to the public drinking water system of the executive director's final decision to continue, revoke, or revise an alternative capacity requirement identifying the specific reason(s) for the decision.

(C) If the executive director finds that failure of the service or other threat to public health and safety is imminent, the executive director may issue written notification of the executive director's final decision to revoke or revise an alternative capacity requirement at any time.

(h) Affected utilities as defined in TWC §13.1394. This subsection applies to all affected utilities, as defined in TWC §13.1394, and is in addition to any other requirements pertaining to emergency power found in this chapter.

(1) Affected utilities must provide one or more of the following options to ensure the emergency operation of its water system during an extended power outage at a minimum of 20 psi, or a pressure approved by the executive director, whichever is applicable, and in accordance with the affected utility's approved emergency preparedness plan:

(A) the maintenance of automatically starting auxiliary generators;

(B) the sharing of auxiliary generator capacity with one or more affected utilities, including through participation in a statewide mutual aid program;

(C) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers, or conveyers of potable water or raw water service, if the agreements provide for coordination with the division of emergency management in the governor's office;

(D) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems;

(E) the use of on-site electrical generation or electrical distribution generation facilities;

(F) hardening of the electric transmission and electric distribution system against damage from natural disasters during an extended power outage;

(G) the maintenance of direct engine or right-angle drives;

(H) designation of the water system as a critical load facility or redundant, isolated or dedicated electrical feeds;

(I) water storage capabilities with sufficient storage to provide water to customers during an extended power outage;

(J) water supplies can be delivered from outside the service area of the affected utility by opening an emergency interconnect or using a water hauler;

(K) affected utility has ability to provide water through artesian flows;

(L) affected utility has ability to open valves between pressure zones to provide redundant interconnectivity between pressure zones;

(M) affected utility will implement emergency water demand rules to maintain emergency operations; or

(N) any other alternative determined by the executive director to be acceptable.

(2) Each affected utility that supplies, provides, or conveys raw surface water shall include in its emergency preparedness plan, under paragraph (1) of this subsection, provisions for demonstrating the capability of each raw water intake pump station, pump station, and pressure facility necessary to provide raw water service to its wholesale customers during emergencies. This does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

(3) Emergency generators used as part of an approved emergency preparedness plan must be inspected, maintained, tested, and operated in accordance with the manufacturer's specifications and as outlined in 290.46(m)(8) of this title.

(4) An affected utility may adopt and is encouraged to enforce limitations on water use while the utility is providing emergency operations.

(5) As soon as safe and practicable following the occurrence of a natural disaster, an affected utility must operate in accordance with its approved emergency preparedness plan, which may include using elevated storage. An affected utility may meet the requirements of TWC §13.1394 including having a currently approved emergency preparedness plan, in lieu of any other rules regarding elevated storage requirements, provided that, under normal operating conditions, the affected utility continues to meet the pressure requirements of §290.46(r) of this title (related to Minimum Acceptable Operating Practices for Public Drinking Water Systems) and the production, treatment, total storage, and service pump capacity requirements of this subchapter.

(6) An affected utility must maintain on-site, or make readily available during emergency operations, an amount of fuel necessary to operate any required emergency power equipment necessary to maintain emergency operations for at least 48 hours.

(7) Each affected utility must implement its emergency preparedness plan upon approval by the executive director.

(i) Affected utilities as defined by TWC §13.1395. This subsection applies to all affected utilities as defined by TWC §13.1395 and is in addition to any other requirements pertaining to emergency power found in this subchapter.

(1) Affected utilities must provide one of the following options of sufficient power to meet the capacity requirements of paragraph (1) or (2) of this subsection, whichever is applicable, and in accordance with the affected utility's approved emergency preparedness plan:

(A) the maintenance of automatically starting auxiliary generators;

(B) the sharing of auxiliary generator capacity with one or more affected utilities;

(C) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers, or conveyors of potable or raw water service, if the agreements provide for coordination with the division of emergency management in the governor's office;

(D) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems;

(E) the use of on-site electrical generation or electrical distributed generation facilities;

(F) hardening of the electric transmission and electric distribution system against damage from natural disasters during an extended power outage;

(G) the maintenance of direct engine or right-angle drives; or

(H) any other alternative determined by the executive director to be acceptable.

(2) Each affected utility that supplies, provides, or conveys surface water to wholesale customers shall install and maintain automatically starting auxiliary generators or distributive generation facilities for each raw water intake pump station, water treatment plant, pump station, and pressure facility necessary to provide water to its wholesale customers. This does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

(3) Emergency generators used as part of an approved emergency preparedness plan must be maintained, tested, and operated in accordance with Level 2 maintenance requirements contained in the current NFPA 110 Standard and the manufacturers specifications if the affected utility serves 1,000 connections or greater, or the manufacturer's specifications and as outlined in §290.46(m)(8) of this title for affected utilities serving fewer than 1,000 connections.

(4) An affected utility may adopt and is encouraged to enforce limitations on water use while the utility is providing emergency operations.

(5) As soon as safe and practicable following the occurrence of a natural disaster, an affected utility must operate in accordance with its approved emergency preparedness plan, which may include using elevated storage. An affected utility may meet the requirements of TWC §13.1395, including having a currently approved emergency preparedness plan, in lieu of any other rules regarding elevated storage requirements, provided that, under normal operating conditions, the affected utility continues to meet the pressure requirements

of §290.46(r) of this title and the production, treatment, total storage and service pump capacity requirements of this subchapter.

(6) An affected utility must maintain on-site, or make readily available during emergency operations, an amount of fuel necessary to operate any required emergency power equipment necessary to maintain emergency operations for at least 48 hours.

(7) Each affected utility must implement their emergency preparedness plan upon approval by the executive director.

(j) Alternative recreational vehicle park connection equivalency. If the actual water usage of a recreational vehicle park that is a retail customer of a public water system is less than 90 percent of the average daily demand of 45.0 gallons per day per recreational vehicle site, the public water system may use an alternative recreational vehicle park connection equivalency calculated using the following figure. The alternative recreational vehicle park connection equivalency will be reviewed during on-site compliance inspections.
Figure: 30 TAC §290.45(j)

(1) To determine the alternative recreational vehicle park connection equivalency, the public water system must calculate the recreational vehicle park's actual average daily demand.

(2) For the purposes of this paragraph, the actual average daily demand is determined based upon at least 12 consecutive months of meter readings for the recreational vehicle park, divided by the total number of days in those months. The actual average daily demand is then divided by the number of recreational vehicle sites and cabin sites within the recreational vehicle park, whether occupied or not.

§290.46. Minimum Acceptable Operating Practices for Public Drinking Water Systems.

(a) General. When a public drinking water supply system is to be established, plans shall be submitted to the executive director for review and approval prior to the construction of the system. All public water systems are to be constructed in conformance with the requirements of this subchapter and maintained and operated in accordance with the following minimum acceptable operating practices. Owners and operators shall allow entry to members of the commission and employees and agents of the commission onto any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to public water systems in the state including the required elements of a sanitary survey as defined in §290.38 of this title (relating to Definitions). Members, employees, or agents acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials.

(b) Microbiological. Submission of samples for microbiological analysis shall be as required by Subchapter F of this chapter (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems). Microbiological samples may be required by the executive director for monitoring purposes in addition to the routine samples required by the drinking water standards. These samples shall be submitted to an accredited laboratory. (A list of the accredited laboratories can be obtained by contacting the executive director.) The samples shall be submitted to the executive director in a manner prescribed by the executive director.

(c) Chemical. Samples for chemical analysis shall be submitted as directed by the executive director.

(d) Disinfectant residuals and monitoring. A disinfectant residual must be continuously maintained during the treatment process and throughout the distribution system.

(1) Disinfection equipment shall be operated and monitored in a manner that will assure compliance with the requirements of §290.110 of this title (relating to Disinfectant Residuals).

(2) The disinfection equipment shall be operated to maintain the following minimum disinfectant residuals in each finished water storage tank and throughout the distribution system at all times:

(A) a free chlorine residual of 0.2 milligrams per liter (mg/L); or

(B) a chloramine residual of 0.5 mg/L (measured as total chlorine) for those systems that distribute chloraminated water.

(e) Operation by trained and licensed personnel. Except as provided in paragraph (1) of this subsection, the production, treatment, and distribution facilities at the public water system must be operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the executive director. Except as provided in paragraph (1) of this subsection, all public water systems must use a water works operator who holds an applicable, valid license issued by the executive director to meet the requirements of this subsection. The licensed operator of a public water system may be an employee, contractor, or volunteer.

(1) Transient, noncommunity public water systems are exempt from the requirements of this subsection if they use only groundwater or purchase treated water from another public water system.

(2) All public water systems that are subject to the provisions of this subsection shall meet the following requirements.

(A) Public water systems shall not allow new or repaired production, treatment, storage, pressure maintenance, or distribution facilities to be placed into service without the prior guidance and approval of a licensed water works operator.

(B) Public water systems shall ensure that their operators are trained regarding the use of all chemicals used in the water treatment plant. Training programs shall meet applicable standards established by the Occupational Safety and Health Administration or the Texas Hazard Communication Act, Texas Health and Safety Code, Chapter 502.

(C) Public water systems using chlorine dioxide shall place the operation of the chlorine dioxide facilities under the direct supervision of a licensed operator who has a Class "C" or higher license.

(D) Effective September 1, 2016, reverse osmosis or nanofiltration membrane systems must have operators that have successfully completed at least one executive director-approved training course or event specific to the operations and maintenance of reverse osmosis or nanofiltration membrane treatment.

(3) Systems that only purchase treated water shall meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Purchased water systems serving no more than 250 connections must use an operator who holds a Class "D" or higher license.

(B) Purchased water systems serving more than 250 connections, but no more than 1,000 connections, must use an operator who holds a Class "C" or higher license.

(C) Purchased water systems serving more than 1,000 connections must use at least two operators who hold a Class "C" or higher license and who each work at least 16 hours per month at the public water system's treatment or distribution facilities.

(4) Systems that treat groundwater and do not treat surface water or groundwater that is under the direct influence of surface water shall meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Groundwater systems serving no more than 250 connections must use an operator with a Class "D" or higher license.

(B) Groundwater systems serving more than 250 connections, but no more than 1,000 connections, must use an operator with a Class "C" or higher groundwater license.

(C) Groundwater systems serving more than 1,000 connections must use at least two operators who hold a Class "C" or higher groundwater license and who each work at least 16 hours per month at the public water system's production, treatment, or distribution facilities.

(5) Systems that treat groundwater that is under the direct influence of surface water must meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Systems which serve no more than 1,000 connections and utilize cartridge or membrane filters must use an operator who holds a Class "C" or higher groundwater license and has completed a four-hour training course on monitoring and reporting requirements or who holds a Class "C" or higher surface water license and has completed the Groundwater Production course.

(B) Systems which serve more than 1,000 connections and utilize cartridge or membrane filters must use at least two operators who meet the requirements of subparagraph (A) of this paragraph and who each work at least 24 hours per month at the public water system's production, treatment, or distribution facilities.

(C) Systems which serve no more than 1,000 connections and utilize coagulant addition and direct filtration must use an operator who holds a Class "C" or higher surface water license and has completed the Groundwater Production course or who holds a Class "C" or higher groundwater license and has completed a Surface Water Production course. Effective January 1, 2007, the public water system must use at least one operator who has completed the Surface Water Production I course and the Surface Water Production II course.

(D) Systems which serve more than 1,000 connections and utilize coagulant addition and direct filtration must use at least two operators who meet the requirements of subparagraph (C) of this paragraph and who each work at least 24 hours per month at the public water system's production, treatment, or distribution facilities. Effective January 1, 2007, the public water system must use at least two operators who have completed the Surface Water Production I course and the Surface Water Production II course.

(E) Systems which utilize complete surface water treatment must comply with the requirements of paragraph (6) of this subsection.

(F) Each plant must have at least one Class "C" or higher operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the commission's drinking water standards during periods when the plant is not staffed.

(6) Systems that treat surface water must meet the following requirements in addition to the requirements contained in paragraph (2) of this subsection.

(A) Surface water systems that serve no more than 1,000 connections must use at least one operator who holds a Class "B" or higher surface water license. Part-time operators may be used to meet the requirements of this subparagraph if the operator is completely familiar with the design and operation of the plant and spends at least four consecutive hours at the plant at least once every 14 days and the system also uses an operator who holds a Class "C" or higher surface water license. Effective January 1, 2007, the public water system must use at least one operator who has completed the Surface Water Production I course and the Surface Water Production II course.

(B) Surface water systems that serve more than 1,000 connections must use at least two operators; one of the required operators must hold a Class "B" or higher surface water license and the other required operator must hold a Class "C" or higher surface water license. Each of the required operators must work at least 32 hours per month at the public water system's production, treatment, or distribution facilities. Effective January 1, 2007, the public water system must use at least two operators who have completed the Surface Water Production I course and the Surface Water Production II course.

(C) Each surface water treatment plant must have at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the commission's drinking water standards during periods when the plant is not staffed.

(D) Public water systems shall not allow Class "D" operators to adjust or modify the treatment processes at surface water treatment plant unless an operator who holds a Class "C" or higher surface license is present at the plant and has issued specific instructions regarding the proposed adjustment.

(f) Operating records and reports. All public water systems must maintain a record of water works operation and maintenance activities and submit periodic operating reports.

(1) The public water system's operating records must be organized, and copies must be kept on file or stored electronically.

(2) The public water system's operating records must be accessible for review during inspections and be available to the executive director upon request.

(3) All public water systems shall maintain a record of operations.

(A) The following records shall be retained for at least two years:

(i) the amount of chemicals used:

(I) Systems that treat surface water or groundwater under the direct influence of surface water shall maintain a record of the amount of each chemical used each day.

(II) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of each chemical used each day.

(III) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchased treated water shall maintain a record of the amount of each chemical used each week;

(ii) the volume of water treated and distributed:

(I) Systems that treat surface water or groundwater under the direct influence of surface water shall maintain a record of the amount of water treated and distributed each day.

(II) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of water distributed each day.

(III) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchase treated water shall maintain a record of the amount of water distributed each week.

(IV) Systems that serve 250 or more connections or serve 750 or more people and also add chemicals or provide pathogen or chemical removal shall maintain a record of the amount of water treated each day.

(V) Systems that serve fewer than 250 connections, serve fewer than 750 people, use only groundwater or purchase treated water, and also add chemicals or provide pathogen or chemical removal shall maintain a record of the amount of water treated each week;

(iii) the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation;

(iv) the dates that dead-end mains were flushed;

(v) the dates that storage tanks and other facilities were cleaned;

(vi) the maintenance records for water system equipment and facilities. For systems using reverse osmosis or nanofiltration, maintain records of each clean-in-place process including the date, duration, and procedure used for each event;

(vii) for systems that do not employ full-time operators to meet the requirements of subsection (e) of this section, a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of subsection (e) of this section; and

(viii) the owner or manager of a public water system that is operated by a volunteer to meet the requirements of subsection (e) of this section, shall maintain a record of each volunteer operator indicating the name of the volunteer, contact information for the volunteer, and the time period for which the volunteer is responsible for operating the public water system. These requirements apply to full-time and part-time licensed volunteer operators. Part-time licensed volunteer operators are excluded from the requirements of clause (vii) of this subparagraph.

(B) The following records shall be retained for at least three years:

(i) copies of notices of violation and any resulting corrective actions. The records of the actions taken to correct violations of primary drinking water regulations must be retained for at least three years after the last action taken with respect to the particular violation involved;

(ii) copies of any public notice issued by the water system;

(iii) the disinfectant residual monitoring results from the distribution system;

(iv) the calibration records for laboratory equipment, flow meters, rate-of-flow controllers, on-line turbidimeters, and on-line disinfectant residual analyzers;

(v) the records of backflow prevention device programs;

(vi) the raw surface water monitoring results and source water monitoring plans required by §290.111 of this title (relating to Surface Water Treatment) must be retained for three years after bin classification required by §290.111 of this title;

(vii) notification to the executive director that a system will provide 5.5-log Cryptosporidium treatment in lieu of raw surface water monitoring;

(viii) except for those specified in subparagraphs (C)(iv) and (E)(i) of this paragraph, the results of all surface water treatment monitoring that are used to demonstrate log inactivation or removal;

(ix) free and total chlorine, monochloramine, ammonia, nitrite, and nitrate monitoring results if chloramines are used in the water system; and

(x) the records of treatment effectiveness monitoring for systems using reverse osmosis or nanofiltration membranes. Treatment effectiveness monitoring includes the parameters for determining when maintenance is required. Examples of parameters to be monitored include conductivity (or total dissolved solids) on each membrane unit, pressure differential across a membrane vessel, flow, flux, and water temperature. At a minimum, systems using reverse osmosis or nanofiltration membranes must monitor the conductivity (or total dissolved solids) of the feed and permeate water once per day.

(C) The following records shall be retained for a period of five years after they are no longer in effect:

(i) the records concerning a variance or exemption granted to the system;

(ii) Concentration Time (CT) studies for surface water treatment plants;

(iii) the Recycling Practices Report form and other records pertaining to site-specific recycle practices for treatment plants that recycle; and

(iv) the turbidity monitoring results and exception reports for individual filters as required by §290.111 of this title.

(D) The following records shall be retained for at least five years:

(i) the results of microbiological analyses;

(ii) the results of inspections (as required in subsection (m)(1) of this section) for all water storage and pressure maintenance facilities;

(iii) the results of inspections (as required by subsection (m)(2) of this section) for all pressure filters;

(iv) documentation of compliance with state approved corrective action plan and schedules required to be completed by groundwater systems that must take corrective actions;

(v) documentation of the reason for an invalidated fecal indicator source sample and documentation of a total coliform-positive sample collected at a location with conditions that could cause such positive samples in a distribution system;

(vi) notification to wholesale system(s) of a distribution coliform-positive sample for consecutive systems using groundwater;

(vii) Consumer Confidence Report compliance documentation;

(viii) records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the executive director-approved minimum specified disinfectant residual for a period of more than four hours for groundwater systems providing 4-log treatment;

(ix) records of executive director-specified compliance requirements for membrane filtration, records of parameters specified by the executive director for approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours for groundwater systems. Membrane filtration can only be used if it is approved by the executive director and if it can be properly validated;

(x) assessment forms, regardless of who conducts the assessment, and documentation of corrective actions completed or documentation of corrective actions required but not yet completed as a result of those assessments and any other available summary documentation of the sanitary defects and corrective actions taken in accordance with §290.109 of this title (relating to Microbial Contaminants) for executive director review;

(xi) seasonal public water systems shall maintain executive director-approved start-up procedures and certification documentation in accordance with §290.109 of this title for executive director review; and

(xii) records of any repeat sample taken that meets the criteria for an extension of the 24-hour period for collecting repeat samples under §290.109 of this title.

(E) The following records shall be retained for at least ten years:

(i) copies of Monthly Operating Reports and any supporting documentation including turbidity monitoring results of the combined filter effluent;

(ii) the results of chemical analyses;

(iii) any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by the executive director shall be kept for a period not less than ten years after completion of the survey involved;

(iv) copies of the Customer Service Inspection reports required by subsection (j) of this section;

(v) copy of any Initial Distribution System Evaluation (IDSE) plan, report, approval letters, and other compliance documentation required by §290.115 of this title (relating to Stage 2 Disinfection Byproducts (TTHM and HAA5));

(vi) state notification of any modifications to an IDSE report;

(vii) copy of any 40/30 certification required by §290.115 of this title;

(viii) documentation of corrective actions taken by groundwater systems in accordance with §290.116 of this title (relating to Groundwater Corrective Actions and Treatment Techniques);

(ix) any Sample Siting Plans required by §290.109(d)(6) of this title and monitoring plans required by §290.121(b) of this title (relating to Monitoring Plans); and

(x) records of the executive director-approved minimum specified disinfectant residual and executive director-approved membrane system integrity monitoring results for groundwater systems providing 4-log treatment, including wholesale, and consecutive systems, regulated under §290.116(c) of this title.

(F) A public water system shall maintain records relating to lead and copper requirements under §290.117 of this title (relating to Regulation of Lead and Copper) for no less than 12 years. Any system subject to the requirements of §290.117 of this title shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, executive determinations, and any other information required by the executive director under §290.117 of this title. These records include, but are not limited to, the following items: tap water monitoring results including the location of each site and date of collection; certification of the volume and validity of first-draw-tap sample criteria via a copy of the laboratory analysis request form; where residents collected the sample; certification that the water system informed the resident of proper sampling procedures; the analytical results for lead and copper concentrations at each tap sample site; and designation of any substitute site not used in previous monitoring periods.

(G) A public water system shall maintain records relating to special studies and pilot projects, special monitoring, and other system-specific matters as directed by the executive director.

(4) Public water systems shall submit routine reports and any additional documentation that the executive director may require to determine compliance with the requirements of this chapter.

(A) The reports must be submitted to the Texas Commission on Environmental Quality, Water Supply Division, MC 155, P.O. Box 13087, Austin, Texas 78711-3087 by the tenth day of the month following the end of the reporting period.

(B) The reports must contain all the information required by the drinking water standards and the results of any special monitoring tests which have been required.

(C) The reports must be completed in ink, typed, or computer-printed and must be signed by the licensed water works operator.

(5) All public water systems that are affected utilities under TWC §13.1394 or §13.1395 must maintain the following records for as long as they are applicable to the system:

(A) An emergency preparedness plan approved by the executive director and a copy of the approval letter.

(B) All required operating, inspection, testing, and maintenance records for auxiliary power equipment, and associated components required to be maintained, or actions performed as prescribed in §290.46(m)(8) of this title.

(C) Copies of the manufacturer's specifications for all generators that are part of the approved emergency preparedness plan.

(g) Disinfection of new or repaired facilities. Disinfection by or under the direction of water system personnel must be performed when repairs are made to existing facilities and before new facilities are placed into service. Disinfection must be performed in accordance with American Water Works Association (AWWA) requirements and water samples must be submitted to an accredited laboratory. The sample results must indicate that the facility is free of microbiological contamination before it is placed into service. When it is necessary to return repaired mains to service as rapidly as possible, doses may be increased to 500 mg/L and the contact time reduced to 1/2 hour.

(h) Calcium hypochlorite. A supply of calcium hypochlorite disinfectant shall be kept on hand for use when making repairs, setting meters, and disinfecting new mains prior to placing them in service.

(i) Plumbing ordinance. Public water systems must adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted (See §290.47(b) of this title (relating to Appendices)). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

(j) Customer service inspections. A customer service inspection certificate shall be completed prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Any customer service inspection certificate form which varies from the format found in commission Form 20699 must be approved by the executive director prior to being placed in use.

(1) Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification.

(A) Plumbing Inspectors and Water Supply Protection Specialists licensed by the Texas State Board of Plumbing Examiners (TSBPE).

(B) Customer service inspectors who have completed a commission-approved course, passed an examination administered by the executive director, and hold current professional license as a customer service inspector.

(2) As potential contaminant hazards are discovered, they shall be promptly eliminated to prevent possible contamination of the water supplied by the public water system. The existence of a health hazard, as identified in §290.47(f) of this title, shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the health hazard no longer exists, or until the health hazard has been isolated from the public water system in accordance with §290.44(h) of this title (relating to Water Distribution).

(3) These customer service inspection requirements are not considered acceptable substitutes for and shall not apply to the sanitary control requirements stated in §290.102(a)(5) of this title (relating to General Applicability).

(4) A customer service inspection is an examination of the private water distribution facilities for the purpose of providing or denying water service. This inspection is limited to the identification and prevention of cross-connections, potential contaminant hazards, and illegal lead materials. The customer service inspector has no authority or obligation beyond the scope of the commission's regulations. A customer service inspection is not a plumbing inspection as defined and regulated by the TSBPE. A customer service inspector is not permitted to perform plumbing inspections. State statutes and TSBPE adopted rules require that TSBPE licensed plumbing inspectors perform plumbing inspections of all new plumbing and alterations or additions to existing plumbing within the municipal limits of all cities, towns, and villages which have passed an ordinance adopting one of the plumbing codes recognized by TSBPE. Such entities may stipulate that the customer service inspection be performed by the plumbing inspector as a part of the more comprehensive plumbing inspection. Where such entities permit customer service inspectors to perform customer service inspections, the customer service inspector shall report any violations immediately to the local entity's plumbing inspection department.

(k) Interconnection. No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the executive director.

(l) Flushing of mains. All dead-end mains must be flushed at monthly intervals. Dead-end lines and other mains shall be flushed as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels as specified in §290.110 of this title.

(m) Maintenance and housekeeping. The maintenance and housekeeping practices used by a public water system shall ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.

(1) Each of the system's ground, elevated, and pressure tanks shall be inspected annually by water system personnel or a contracted inspection service.

(A) Ground and elevated storage tank inspections must determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gasketing provide adequate protection against insects, rodents, and other vermin, the interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces, and the tank remains in a watertight condition.

(B) Pressure tank inspections must determine that the pressure release device and pressure gauge are working properly, the air-water ratio is being maintained at the proper level, the exterior coating systems are continuing to provide adequate protection to all metal surfaces, and the tank remains in watertight condition. Pressure tanks provided with an inspection port must have the interior surface inspected every five years.

(C) All tanks shall be inspected annually to determine that instrumentation and controls are working properly.

(2) When pressure filters are used, a visual inspection of the filter media and internal filter surfaces shall be conducted annually to ensure that the filter media is in good condition and the coating materials continue to provide adequate protection to internal surfaces.

(3) When cartridge filters are used, filter cartridges shall be changed at the frequency required by the manufacturer, or more frequently if needed.

(4) All water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances shall be maintained in a watertight condition and be free of excessive solids.

(5) Basins used for water clarification shall be maintained free of excessive solids to prevent possible carryover of sludge and the formation of tastes and odors.

(6) Pumps, motors, valves, and other mechanical devices shall be maintained in good working condition.

(7) Reverse osmosis or nanofiltration membrane systems shall be cleaned, or replaced, in accordance with the allowable operating conditions of the manufacturer and shall be based on one or more of the following: increased salt passage, increased or decreased pressure differential, and/or change in normalized permeate flow.

(8) Emergency generators must be appropriately tested and maintained monthly under at least 30% load based on the manufacturer's name plate kilowatt (kW) rating for at least 30 minutes, or as recommended by the manufacturer, to ensure functionality during emergency situations.

(A) Emergency generators operated at water systems serving 1,000 connections or greater must be maintained in accordance with Level 2 maintenance requirements contained in the current National Fire Protection Association (NFPA) 110 Standard and manufacturer's recommendation. In addition, the water system must maintain an inventory of operational maintenance items, lubricants, and coolants for critical generator components.

(B) Emergency generators operated at water systems serving fewer than 1,000 connections must be maintained according to clauses (i) - (x) of this subparagraph, supplemented with any additional requirements not listed below as prescribed in the manufacturer's specifications, or Level 2 maintenance requirements contained in NFPA 110 Standard. In addition, the public water system must maintain an inventory of operational maintenance items, lubricants, and coolants for critical generator components.

(i) Prior to monthly generator start-up, inspect and perform any needed maintenance on the generator fuel system.

(I) Document tank levels and inspect fuel tanks for fuel contamination and condensation in the portion of the tank occupied by air. If contamination is suspected, replace or polish the contaminated fuel before use.

(II) Inspect fuel lines and fittings for breaks and degradation. Replace fuel lines if needed.

(III) Inspect fuel filters and water separators for water accumulation, clogging and sediment buildup. Replace fuel filters and separators at the frequency recommended by the manufacturer, or as needed.

(IV) Inspect fuel transfer pumps, float switches and valves, where provided, between holding tanks and the generator to verify that they are operating properly.

(V) Where provided, inspect fuel tank grounding rods, cathodic and generator lightning protection for damage that may render the protection ineffective.

(ii) While the generator is operating under load, inspect the fuel pump to verify that it is operating properly.

(iii) Prior to monthly generator start up, inspect and perform any needed maintenance on the generator lubrication system.

(I) Inspect oil lines and oil reservoirs for adequate oil levels, leaks, breaks and degradation. Change oil at the frequency recommended by the manufacturer.

(II) Grease all bearing components and grease fittings at the frequency recommended by the manufacturer.

(iv) Prior to monthly generator start up, inspect and perform any needed maintenance on the generator coolant system.

(I) Inspect the block heater, coolant lines and coolant reservoirs for adequate coolant levels, leaks, breaks and degradation; replace as needed.

(II) Inspect coolant filters for clogging and sediment buildup. Replace coolant filters at the frequency recommended by the manufacturer, or as needed.

(III) Inspect the radiator, fan system, belts and air intake and filters for obstruction, cracks, breaks, and leaks; replace as needed.

(v) While the generator is operating under load, inspect the exhaust manifold and muffler to verify that they are not obstructed or leaking, are in good working condition and that fumes are directed away from enclosed areas.

(vi) Where a generator is located inside an enclosed structure, a carbon monoxide monitor equipped with automatic alarms and generator shutdowns must be present and operational.

(vii) Prior to monthly generator start up, inspect and perform any needed maintenance on the generator electrical system.

(I) Confirm that all batteries are mounted and properly secured. Inspect battery chargers, wiring and cables for damage, corrosion, connection continuity, and that all contacts are securely tightened onto battery terminals.

(II) Inspect each battery unit for adequate electrolyte levels, charge retention and appropriate discharge voltage.

(viii) While the generator is operating under load, inspect engine starters and alternators to verify that they are operating properly.

(ix) At least once per month, inspect Programmable Logic Controllers (PLC) and Uninterrupted Power Supplies (UPC), where applicable, to ensure that they are water-tight and not subject to floods, are properly ventilated, and that backup power supplies have adequate charge.

(x) At least once per month, inspect switch gears to ensure they are water-tight and in good, working condition.

(9) All critical components as described in the table in §290.47(c) associated to the source, treatment, storage, or other facilities necessary for the continued operations and distribution of water to customers must be protected from adverse weather conditions. Weatherization methods must be maintained in good condition and replaced as needed to ensure adequate protection.

(n) Engineering plans and maps. Plans, specifications, maps, and other pertinent information shall be maintained to facilitate the operation and maintenance of the system's facilities and equipment. The following records shall be maintained on file at the public water system and be available to the executive director upon request.

(1) Accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank shall be maintained at the public water system until the facility is decommissioned. As-built plans of individual projects may be used to fulfill this requirement if the plans are maintained in an organized manner.

(2) An accurate and up-to-date map of the distribution system shall be available so that valves and mains can be easily located during emergencies.

(3) Copies of well completion data as defined in §290.41(c)(3)(A) of this title (relating to Water Sources) shall be kept on file for as long as the well remains in service.

(o) Filter backwashing at surface water treatment plants. Filters must be backwashed when a loss of head differential of six to ten feet is experienced between the influent and effluent loss of head gauges or when the turbidity level at the effluent of the filter reaches 1.0 nephelometric turbidity unit (NTU).

(p) Data on public water system ownership and management. The agency shall be provided with information regarding public water system ownership and management.

(1) When a public water system changes ownership, a written notice of the transaction must be provided to the executive director. The grantee shall notify the executive director of the change in ownership within 30 days after the effective date of the change in ownership by providing the name of the grantor, the effective date of the change in ownership, the physical and mailing address and phone number of the grantee, the public water system's drinking water supply identification number, and any other information necessary to identify the transaction.

(2) On an annual basis, the owner of a public water system shall provide the executive director with a list of all the operators and operating companies that the public water system uses. The notice shall contain the name, contact information, work status, license number, and license class of each operator and the name and registration number of each operating company. Public water systems may report the list of operators and operating companies to the executive director by utilizing the Texas Commission on Environmental Quality (TCEQ) online "Operator Notice" form. If reporting cannot be accomplished utilizing the TCEQ online "Operator Notice" form, then a public water system may report the list of operators and operating companies on the written "Operator Notice" form to the executive director by mail, email or facsimile. (See §290.47(d) of this title).

(q) Special precautions, protective measures, and boil water notices. Special precautions, protective measures, and boil water notices shall be instituted by the public water system as specified in this subsection in the event of low distribution pressures (below 20 pounds per square inch (psi)), water outages, microbiological samples found to contain Escherichia coli (E. coli) (or other approved fecal indicator), failure to maintain adequate disinfectant residuals, elevated finished water turbidity levels, or other conditions which indicate that the potability of the drinking water supply has been compromised. Special precautions, protective measures, and boil water notices are corrective or protective actions which shall be instituted by the public water system to comply with the requirements of this subsection.

(1) A public water system shall issue a boil water notice, special precaution, or protective measure to customers throughout the distribution system or in the affected area(s) of the distribution system as soon as possible, but in no case later than 24 hours after the public water system has met any of the criteria described in subparagraph (A) and (B) of this paragraph.

(A) Situations requiring boil water notices:

(i) The flowchart found in §290.47(e) of this title shall be used to determine if a boil water notice shall be issued by the public water system to customers in the event of a loss of distribution system pressure.

(ii) A public water system shall issue a boil water notice to customers for a violation of the MCL for E. coli (or other approved fecal indicator) as described in §290.109(b)(1) of this title.

(iii) A public water system shall issue a boil water notice to customers if the combined filter effluent turbidity of the finished water, produced by a treatment plant that is treating surface water or groundwater under the direct influence of surface water, is above the turbidity level requirements as described in §290.122(a)(1)(B) of this title.

(iv) A public water system shall issue a boil water notice to customers if the public water system has failed to maintain adequate disinfectant residuals as described in subsection (d) of this section and as described in §290.110 of this title (relating to Disinfectant Residuals) for more than 24 hours.

(v) A public water system shall issue a boil water notice to customers if a waterborne disease outbreak occurs as defined in 40 Code for Federal Regulations §141.2.

(B) Situations requiring special precautions or protective measures may be determined by the public water system or at the discretion of the executive director, as described in paragraph (5) of this subsection.

(2) Boil water notices, special precautions, or protective measures shall be issued to customers by using one or more of the Tier 1 delivery methods as described in §290.122(a)(2) of this title (relating to Public Notification) and shall be issued using the applicable language and format specified by the executive director.

(3) A copy of boil water notice, special precaution, or protective measure issued shall be provided to the executive director electronically, within 24 hours or no later than the next business day after the issuance by the public water system, and a signed Certificate of Delivery shall be provided to the executive director within ten days after issuance by the public water system in accordance with §290.122(f) of this title.

(4) Boil water notices, special precautions, or protective measures shall be multilingual where appropriate, based upon local demographics.

(5) Special precautions, protective measures, and boil water notices may be required at the discretion of the executive director and shall be instituted by the public water system, upon written notification to the public water system, and shall remain in effect until the public water system meets the requirements of subparagraph (C) of this paragraph and paragraph (6) of this subsection.

(A) Circumstances warranting the exercise of such discretion may include:

(i) the public water system has failed to provide any of the required compliance information to the executive director as described in §290.111(h)(2) of this title (relating to Surface Water Treatment) and the failure results in the inability of the executive director to determine compliance as described in §290.111(i) of this title or the existence of a potential or actual health hazard, as described in §290.38 of this title (relating to Definitions); or

(ii) waterborne emergencies for situations that do not meet the definition of waterborne disease outbreak as defined in 40 Code of Federal Regulations §141.2, but that still have the potential to have serious adverse health effects as a result of short-term exposure. These can include, but are not limited to, outbreaks not related to treatment deficiencies, as well as situations that have the potential to cause outbreaks, such as failures or significant interruption in water treatment processes, natural disasters that disrupt the water supply or distribution system, chemical spills, or unexpected loading of possible pathogens into the source water.

(B) The executive director will provide written notification to the public water system in the event a public water system is required to institute special precautions, protective measures, or issue boil water notices to customers at the discretion of the executive director. Upon written notification from the executive director, the public

water system shall implement special precautions, protective measures, or issue boil water notices to customers within 24 hours or within the time period specified by the executive director. The executive director may specify, in writing, additional required actions to the requirements described in paragraph (6) of this subsection for a public water system to rescind the notice.

(C) The public water system shall provide any required information to the executive director to document that the public water system has met the rescind requirements for special precautions, protective measures, and boil water notices required at the discretion of the executive director under this paragraph.

(6) Once the boil water notice, special precaution, or protective measure is no longer in effect, the public water system shall notify customers that the notice has been rescinded. A public water system shall not rescind a notice or notify customers that a notice has been rescinded until the public water system has met all the applicable requirements, as described in subparagraph (A) of this paragraph.

(A) Required actions prior to rescinding a boil water notice include:

(i) water distribution system pressures in excess of 20 psi are consistently being maintained throughout the distribution system in accordance with the flowchart found in §290.47(e) of this title (relating to Appendices);

(ii) a minimum of 0.2 mg/L free chlorine residual or 0.5 mg/L chloramine residual (measured as total chlorine) is present and is consistently being maintained in each finished water storage tank and throughout the distribution system as described in subsection (d) of this section;

(iii) finished water entering the distribution system, produced by a treatment plant that is treating surface water or groundwater under the direct influence of surface water, has a turbidity level that is consistently below 1.0 NTU and the affected areas of the distribution system have been thoroughly flushed;

(iv) additional actions may be required by the executive director, in writing, and these additional actions shall be completed and documentation provided to the executive director for approval prior to the public water system rescinding the notice, and

(v) water samples for microbiological analysis, marked as "special" on the laboratory sample submission form, were collected from representative locations throughout the distribution system or in the affected area(s) of the distribution system after the public water system has met all other applicable requirements of this paragraph and the water samples collected for microbiological analysis are found negative for coliform organisms. The water samples described in this subparagraph shall be analyzed at laboratories in accordance with §290.119 of this title (relating to Analytical Procedures).

(B) A public water system shall notify customers that the notice has been rescinded within 24 hours or no later than the next business day, using language and format specified by the executive director once the public water system has met the requirements of this paragraph. The method of delivery of the rescind notice must be in a manner similar to the original notice.

(C) The public water system shall provide a copy of the rescind notice, a copy of the associated microbiological laboratory analysis results, as required by subparagraph (A) of this paragraph, and a signed Certificate of Delivery to the executive director within ten days after the public water system has issued the rescind notice to customers in accordance with §290.122(f) of this title.

(r) Minimum pressures. All public water systems shall be operated to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. The system shall also be operated to maintain a minimum pressure of 20 psi during emergencies such as firefighting. As soon as safe and practicable following the occurrence of a natural disaster, a public water system that is an affected utility, as defined in TWC §13.1394 or §13.1395, shall maintain a minimum of 20 psi or a pressure approved by the executive director, or 35 psi, respectively, throughout the distribution system during an extended power outage.

(s) Testing equipment. Accurate testing equipment or some other means of monitoring the effectiveness of any chemical treatment or pathogen inactivation or removal processes must be used by the system.

(1) Flow-measuring devices and rate-of-flow controllers that are required by §290.42(b) and (d) of this title (relating to Water Treatment) shall be calibrated at least once every 12 months. Well meters required by §290.41(c)(3)(N) of this title shall be calibrated at least once every three years.

(2) Laboratory equipment used for compliance testing shall be properly calibrated.

(A) pH meters shall be properly calibrated.

(i) Benchtop pH meters shall be calibrated according to manufacturer specifications at least once each day.

(ii) The calibration of benchtop pH meters shall be checked with at least one buffer each time a series of samples is run, and if necessary, recalibrated according to manufacturer specifications.

(iii) On-line pH meters shall be calibrated according to manufacturer specifications at least once every 30 days.

(iv) The calibration of on-line pH meters shall be checked at least once each week with a primary standard or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit. If necessary, the on-line unit shall be recalibrated with primary standards.

(B) Turbidimeters shall be properly calibrated.

(i) Benchtop turbidimeters shall be calibrated with primary standards at least once every 90 days. Each time the turbidimeter is calibrated with primary standards, the secondary standards shall be restandardized.

(ii) The calibration of benchtop turbidimeters shall be checked with secondary standards each time a series of samples is tested, and if necessary, recalibrated with primary standards.

(iii) On-line turbidimeters shall be calibrated with primary standards at least once every 90 days.

(iv) The calibration of on-line turbidimeters shall be checked at least once each week with a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit. If necessary, the on-line unit shall be recalibrated with primary standards.

(C) Chemical disinfectant residual analyzers shall be properly calibrated.

(i) The accuracy of manual disinfectant residual analyzers shall be verified at least once every 90 days using chlorine solutions of known concentrations.

(ii) The accuracy of continuous disinfectant residual analyzers shall be checked at least once every seven days with a chlorine solution of known concentration or by comparing the results from the on-line analyzer with the result of approved benchtop method in accordance with §290.119 of this title.

(iii) If a disinfectant residual analyzer produces a result which is not within 15% of the expected value, the cause of the discrepancy must be determined and corrected and, if necessary, the instrument must be recalibrated.

(D) Analyzers used to determine the effectiveness of chloramination in §290.110(c)(5) of this title shall be properly verified in accordance with the manufacturer's recommendations every 90 days. These analyzers include monochloramine, ammonia, nitrite, and nitrate equipment used by the public water system.

(E) Ultraviolet (UV) light disinfection analyzers shall be properly calibrated.

(i) The accuracy of duty UV sensors shall be verified with a reference UV sensor monthly, according to the UV sensor manufacturer.

(ii) The reference UV sensor shall be calibrated by the UV sensor manufacturer on a yearly basis, or sooner if needed.

(iii) If used, the UV Transmittance (UVT) analyzer shall be calibrated weekly according to the UVT analyzer manufacturer specifications.

(F) Systems must verify the performance of direct integrity testing equipment in a manner and schedule approved by the executive director.

(G) Conductivity (or total dissolved solids) monitors and pressure instruments used for reverse osmosis and nanofiltration membrane systems shall be calibrated at least once every 12 months.

(H) Any temperature monitoring devices used for reverse osmosis and nanofiltration shall be verified and calibrated in accordance with the manufacturer's specifications.

(t) System ownership. All community water systems shall post a legible sign at each of its production, treatment, and storage facilities. The sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where a responsible official can be contacted.

(u) Abandoned wells. Abandoned public water supply wells owned by the system must be plugged with cement according to 16 TAC Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers). Wells that are not in use and are non-deteriorated as defined in those rules must be tested every five years or as required by the executive director to prove that they are in a non-deteriorated condition. The test results shall be sent to the executive director for review and approval. Deteriorated wells must be either plugged with cement or repaired to a non-deteriorated condition.

(v) Electrical wiring. All water system electrical wiring must be securely installed in compliance with a local or national electrical code.

(w) Security. All systems shall maintain internal procedures to notify the executive director by methods provided by the executive director [~~a toll-free reporting phone number~~] immediately upon determining that one of the following events has occurred, if the event may negatively impact the production or delivery of safe and adequate drinking water:

(1) an unusual or unexplained unauthorized entry at property of the public water system;

(2) an act of terrorism against the public water system;

(3) an unauthorized attempt to probe for or gain access to proprietary information that supports the key activities of the public water system;

(4) a theft of property that supports the key activities of the public water system;

(5) a natural disaster, accident, or act that results in damage to the public water system; or

(6) a nonindustrial water system that experiences an unplanned condition that has caused the system to issue a special precaution under §290.47(e) of this title or issue a special precaution, protective measure, or boil water notice under subsection (q) of this section.

(A) For the purposes of this paragraph, a nonindustrial water system is defined as a public water system which does not exclusively serve industrial connections.

(B) For the purposes of this paragraph unplanned condition is defined as any condition where advance notice to water system customers has not been performed.

(x) Public safety standards. This subsection only applies to a municipality with a population of 1,000,000 or more, with a public utility within its corporate limits; a municipality with a population of more than 36,000 and less than 41,000 located in two counties, one of which is a county with a population of more than 1.8 million; a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction (ETJ), with a population of more than 7,000 and less than 30,000 located in a county with a population of more than 155,000 and less than 180,000; or a municipality, including any industrial district within the municipality or its ETJ, with a population of more than 11,000 and less than 18,000 located in a county with a population of more than 125,000 and less than 230,000.

(1) In this subsection:

(A) "Regulatory authority" means, in accordance with the context in which it is found, either the commission or the governing body of a municipality.

(B) "Public utility" means any person, corporation, cooperative corporation, affected county, or any combination of these persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(C) "Residential area" means:

(i) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal land use is for private residences;

(ii) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75% of the front footage along the block face; or

(iii) a subdivision a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

(D) "Industrial district" has the meaning assigned by Texas Local Government Code, §42.044, and includes an area that is designated by the governing body of a municipality as a zoned industrial area.

(2) When the regulatory authority is a municipality, it shall by ordinance adopt standards for installing fire hydrants in residential areas in the municipality. These standards must, at a minimum, follow current AWWA standards pertaining to fire hydrants and the requirements of §290.44(e)(6) of this title.

(3) When the regulatory authority is a municipality, it shall by ordinance adopt standards for maintaining sufficient water pressure for service to fire hydrants adequate to protect public safety in residential areas in the municipality. The standards specified in paragraph (4) of this subsection are the minimum acceptable standards.

(4) A public utility shall deliver water to any fire hydrant connected to the public utility's water system located in a residential area so that the flow at the fire hydrant is at least 250 gallons per minute for a minimum period of two hours while maintaining a minimum pressure of 20 psi throughout the distribution system during emergencies such as firefighting. That flow is in addition to the public utility's maximum daily demand for purposes other than firefighting.

(5) When the regulatory authority is a municipality, it shall adopt the standards required by this subsection within one year of the effective date of this subsection or within one year of the date this subsection first applies to the municipality, whichever occurs later.

(6) A public utility shall comply with the standards established by a municipality under both paragraphs (2) and (3) of this subsection within one year of the date the standards first apply to the public utility. If a municipality has failed to comply with the deadline required by paragraph (5) of this subsection, then a public utility shall comply with the standards specified in paragraphs (2) and (4) of this subsection within two years of the effective date of this subsection or within one year of the date this subsection first applies to the public utility, whichever occurs later.

(y) Fire hydrant flow standards.

(1) In this subsection:

(A) "Municipal utility" means a retail public utility, as defined by Texas Water Code (TWC), §13.002, that is owned by a municipality.

(B) "Residential area" means an area used principally for private residences that is improved with at least 100 single-family homes and has an average density of one home per half acre.

(C) "Utility" includes a "public utility" and "water supply or sewer service corporation" as defined by TWC §13.002.

(2) The governing body of a municipality by ordinance may adopt standards set by the executive director requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in a residential area located in the municipality or the municipality's ETJ. The municipality must submit a signed copy of the ordinance to the executive director within 60 days of the adoption of an ordinance by its governing body.

(3) In addition to a utility's maximum daily demand, the utility must provide, for purposes of emergency fire suppression:

(A) a minimum sufficient water flow of at least 250 gallons per minute for at least two hours; and

(B) a minimum sufficient water pressure of at least 20 psi.

(4) If a municipality adopts standards for a minimum sufficient water flow and pressure to fire hydrants, the municipality must require a utility to maintain at least the minimum sufficient water flow and pressure described by paragraph (3) of this subsection in fire hydrants in a residential area located within the municipality or the municipality's ETJ. If the municipality adopts a fire flow standard exceeding the minimum standards set in paragraph (3) of this subsection, the standard adopted by the municipality must be based on:

(A) the density of connections;

(B) service demands; and

(C) other relevant factors.

(5) If the municipality owns a municipal utility, it may not require another utility located in the municipality or the municipality's ETJ to provide water flow and pressure in a fire hydrant greater than that provided by the municipal utility as determined by the executive director.

(6) If the municipality does not own a municipal utility, it may not require a utility located in the municipality or the municipality's ETJ to provide a minimum sufficient water flow and pressure greater than the standard established by paragraph (3) of this subsection.

(7) An ordinance under paragraph (2) of this subsection may not require a utility to build, retrofit, or improve infrastructure in existence at the time the ordinance is adopted.

(8) A municipality with a population of less than 1.9 million that adopts standards under paragraph (2) of this subsection or that seeks to use a utility's water for emergency fire suppression shall enter into a written memorandum of understanding with the utility.

(A) The memorandum of understanding must provide for:

(i) the necessary testing of fire hydrants; and

(ii) other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with this subsection.

(B) The municipality must submit a signed copy of the memorandum of understanding to the executive director within 60 days of the execution of the memorandum of understanding between its governing body and the utility.

(9) A municipality may notify the executive director of a utility's failure to comply with a standard adopted under paragraph (3) of this subsection.

(10) On receiving the notice described by paragraph (9) of this subsection, the executive director shall require a utility in violation of a standard adopted under this subsection to comply within a reasonable time established by the executive director.

(z) Nitrification Action Plan (NAP). Any water system distributing chloraminated water must create a NAP. The system must create a written NAP that:

(1) contains the system-specific plan for monitoring free ammonia, monochloramine, total chlorine, nitrite, and nitrate levels;

(2) contains system-specific action levels of the above monitored chemicals where action must be taken;

(3) contains specific corrective actions to be taken if the action levels are exceeded; and

(4) is maintained as part of the system's monitoring plan in §290.121 of this title.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 5, 2024.

TRD-202403569
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: September 15, 2024
For further information, please call: (512) 239-6087

♦ ♦ ♦

CHAPTER 291. UTILITY REGULATIONS

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §291.143 and §291.161.

Background and Summary of the Factual Basis for the Proposed Rules

During the 88th Texas Legislative Session (2023), House Bill (HB) 1500 and HB 4559 passed, and require amendments to 30 Texas Administrative Code (TAC) Chapter 291 to implement the enacted legislation.

Texas Water Code (TWC), §13.4132, enacted in HB 1500, establishes the duration of an emergency order appointing a temporary manager to operate a utility that discontinues operation or is referred for appointment of a receiver.

This rulemaking reflects changes to TWC, §13.1395 enacted in HB 4559, which amended the definition of "affected utility" by changing county population. The amended population maintains the applicability of the counties required to have an Emergency Preparedness Plan (EPP) under TWC, §13.1395 or TWC, §13.1394.

Section by Section Discussion

§291.143 Operation of a Utility by a Temporary Manager.

The commission proposes to amend §291.143 to revise the term limit of a temporary manager from 180 to 360 days, based on the duration of an emergency order, and provide for renewal of the emergency order in accordance with TWC, §13.4132 as amended by HB 1500.

§291.161 Definitions.

The commission proposes to amend the definition of "affected utility" in §291.161(1)(B)(ii) to change the population from "550,000" to "800,000" in accordance with TWC, §13.1395 as amended by HB 4559. The amended population maintains the applicability of the counties required to have an Emergency Preparedness Plan (EPP) under TWC, §13.1395 or TWC, §13.1394.

Fiscal Note: Costs to State and Local Government

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

Public Benefits and Costs

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance and consistency with state law, specifically HB 4559 and HB 1500 from the 88th Texas Legislative Session (2023). The proposed rulemaking is not anticipated to result in significant fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Rural Community Impact Statement

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to §2001.0225. A "major environmental rule" means a rule with a specific intent to protect the environment or reduce risks

to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

First, the rulemaking does not meet the statutory definition of a "major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking is to provide a duration for an emergency order issued under TWC, §13.4132 and to revise the county population in the definition of affected utility in TWC, §13.1395(a)(1), which applies to those affected utilities which are required to submit emergency preparedness plans to the commission for review and approval.

Second, the rulemaking does not meet the statutory definition of a "major environmental rule" because the rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the amendments will not adversely affect in a material way the economy, a sector of the economy, competition, or jobs.

Finally, the rulemaking does not meet any of the four applicability requirements for a "major environmental rule" listed in Texas Government Code, §2001.0225(a). Section §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of the preceding four applicability requirements because this rulemaking: does not exceed any standard set by federal law for public water systems; does not exceed any express requirement of state law; does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government; and is not based solely under the general powers of the agency, but under THSC, §341.031 and §341.0315, which allows the commission to adopt and enforce rules related to public drinking water, as well as under the general powers of the commission.

The commission invites public comment regarding the draft Regulatory Impact Analysis Determination.

Takings Impact Assessment

The commission evaluated this rulemaking and performed a preliminary assessment of whether these rules constitute a taking under Texas Government Code, Chapter 2007.

The commission proposes these rules to implement HB 1500 and 4559, 88th Texas Legislative session (2023). HB 1500 amended TWC, §13.4132 by establishing a duration of 360 days, with the possibility of renewal, for an emergency order issued to appoint a temporary manager of a water system that ceases operation or is referred for appointment of a receiver. HB 4559 amended TWC, §13.1394(a)(1) by changing the county population in the definition of "affected utility." An affected utility is required to file an emergency preparedness plan with the executive director for review and approval.

The Commission's analysis indicates that Texas Government Code, Chapter §2007, does not apply to these rules based upon exceptions to applicability in Texas Government Code, §2007.003(b). The rulemaking is an action that is taken to fulfill obligations mandated under state law for all of the proposed rules. The rulemaking related to emergency orders and emergency preparedness plans is also an action taken in response to a real and substantial threat to public health and safety, that is designed to significantly advance the public health and safety purpose, and that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(4) and (13).

First, the rulemaking is an action taken to fulfill obligations under state law. The duration of an emergency order appointing a temporary manager is now established under TWC, §13.4132(b-1), and the change to the county population in the definition of "affected utility" maintains those affected utilities requirements to submit emergency preparedness plans to the commission under TWC, §13.1395a)(1) in the counties where the population has increased passed 500,000.

Second, the rulemaking is related to the duration of emergency orders and to the submission of emergency preparedness plans by affected utilities, which are actions that are taken in response to a real and substantial threat to public health and safety. The proposed rules would ensure the continuity of operation of public water systems by temporary managers appointed pursuant to emergency orders with a duration established by the legislature and by ensuring that emergency preparedness plans are submitted by affected utilities in appropriate counties designated by the legislature. The proposed rules would significantly advance the public health and safety purpose; and does not impose a greater burden than is necessary to achieve the public health and safety purpose. These rules advance the public health and safety by ensuring appropriate governmental regulation and do so in a way that does not impose a greater burden than is necessary to achieve the public health and safety purpose. Texas Government Code, §2007.003(b)(13).

Further, the commission has determined that promulgation and enforcement of these rules would be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rules because the rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there would be no reduction in property value as a result of these rules. The rules require compliance regarding the duration of an emergency order appointing a temporary manager as now established under state law, and compliance regarding submission by an affected utility to the commission of its emergency preparedness plan, which is meant to ensure public health and safety. Therefore, the rules would not constitute a taking under Texas Government Code, Chapter §2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hold a hybrid virtual and in-person public hearing on this proposal in Austin on September 12, 2024 at 10:00 a.m. in building F; room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing starting at 9:30 a.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 10, 2024. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 11, 2024, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

https://events.teams.microsoft.com/event/1edc845c-d424-4035-9209-3f5b3eaa3880@871a83a4-a1ce-4b7a-8156-3bcd93a08fba

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov.* Electronic comments may be submitted at: https://tceq.commentinput.com/comment/search. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2024-015-290-OW. The comment period closes at 11:59 p.m. on September 17, 2024. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html.* For further information, please contact Rheaa Miller, Emergency Preparedness and Response Section, at 512-239-5728 or by email at rheaa.miller@tceq.texas.gov.

SUBCHAPTER J. ENFORCEMENT, SUPERVISION, AND RECEIVERSHIP

30 TAC §291.143

Statutory Authority

The rulemaking is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the commission's general authority to perform any act necessary to carry out its jurisdiction; TWC, §5.103 and TWC, §5.105, which establish the commission's authority to adopt any rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §341.031, which requires drinking water supplies to meet standards established by the commission; and THSC, §341.0315, which requires public drinking water systems to comply with commission standards established to ensure the supply of safe drinking water.

The proposed rulemaking implements legislation enacted by the 88th Texas Legislature in 2023: TWC, §13.4132 in House Bill (HB) 1500 and TWC, §13.1395(a)(1) in HB 4559.

§291.143. Operation of a Utility by a Temporary Manager.

(a) By emergency order under Texas Water Code (TWC), §5.507 and §13.4132, the commission or the executive director may appoint a person under Chapter 35 of this title (relating to Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions) to temporarily manage and operate a utility that has discontinued or abandoned operations or the provision of services, or which has been or is being referred to the attorney general for the appointment of a receiver under TWC, §13.412.

(b) A person appointed under this section has the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate services to customers, including the power and duty to:

(1) read meters;

(2) bill for utility services;

(3) collect revenues;

(4) disburse funds;

(5) request rate increases if needed;

(6) access all system components;

(7) conduct required sampling;

(8) make necessary repairs; and

(9) perform other acts necessary to assure continuous and adequate utility service as authorized by the commission.

(c) Upon appointment by the commission, the temporary manager will post financial assurance with the commission in an amount and type acceptable to the commission. The temporary manager or the executive director may request waiver of the financial assurance requirements or may request substitution of some other form of collateral as a means of ensuring the continued performance of the temporary manager.

(d) The term of an emergency order issued to appoint a temporary manager may not exceed 360 days. The emergency order may be renewed:

(1) once for a period not to exceed 360 days, or

(2) if the utility is undergoing a sale, transfer, merger, consolidation, or acquisition required to be reported to the Public Utility Commission under Tex. Water Code §13.301, until the sale, transfer, merger, consolidation, or acquisition process is complete.

(e) [~~(d)~~] The temporary manager shall serve a term not to exceed 360 [~~of 180~~] days, unless:

(1) specified otherwise by the commission;

(2) an extension is requested by the executive director or the temporary manager and granted by the commission under subsection (d) of this section;

(3) the temporary manager is discharged from his responsibilities by the commission; or

(4) a superseding action is taken by an appropriate court on the appointment of a receiver at the request of the attorney general.

(f) [~~(e)~~] Within 60 days after appointment, a temporary manager shall return to the commission an inventory of all property received.

(g) [~~(f)~~] Compensation for the temporary manager will come from utility revenues and will be set by the commission at the time of appointment. Changes in the compensation agreement can be approved by the executive director.

(h) [~~(g)~~] The temporary manager shall collect the assets and carry on the business of the utility and shall use the revenues and assets of the utility in the best interests of the customers to ensure that continuous and adequate utility service is provided. The temporary manager shall give priority to expenses incurred in normal utility operations and for repairs and improvements made since being appointed temporary manager.

(i) [~~(h)~~] The temporary manager shall report to the executive director on a monthly basis. This report shall include:

(1) an income statement for the reporting period;

(2) a summary of utility activities such as improvements or major repairs made, number of connections added, and amount of water produced or treated; and

(3) any other information required by the executive director.

(j) [~~(i)~~] During the period in which the utility is managed by the temporary manager, the certificate of convenience and necessity shall remain in the name of the utility owner; however, the temporary manager assumes the obligations for operating within all legal requirements.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 5, 2024.

TRD-202403570
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: September 15, 2024
For further information, please call: (512) 239-6087

♦ ♦ ♦

SUBCHAPTER L. STANDARDS OF EMERGENCY OPERATIONS

30 TAC §291.161

Statutory Authority

The rulemaking is proposed under Texas Water Code (TWC) §5.013, which establishes the general jurisdiction of the commission; TWC §5.102, which establishes the commission's general authority to perform any act necessary to carry out its jurisdiction; TWC §5.103 and TWC §5.105, which establish the commission's authority to adopt any rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC) §341.031, which requires drinking water supplies to meet standards established by the commission; and THSC §341.0315, which requires public drinking water systems to comply with commission standards established to ensure the supply of safe drinking water.

The proposed rulemaking implements legislation enacted by the 88th Texas Legislature in 2023: TWC §13.4132 in House Bill (HB) 1500 and TWC §13.1395(a)(1) in HB 4559.

§291.161. Definitions.

For the purposes of this subchapter, the following definitions apply.

(1) Affected utility -

(A) Any retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility as defined in TWC, §13.1394; or

(B) Any retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer is an affected utility as defined in TWC, §13.1395 in a county with a population of:

(i) 3.3 million or more; or

(ii) 800,000 [~~550,000~~] or more adjacent to a county with a population of 3.3 million or more.

(2) Emergency operations--The operation of an affected utility during an extended power outage at a minimum water pressure of 20 pounds per square inch (psi), or a water pressure approved by the executive director as required under TWC, §13.1394 or 35 psi as required under TWC, §13.1395.

(3) Extended power outage--A power outage lasting for more than 24 hours.

(4) Population--The population shown by the most recent federal decennial census.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 5, 2024.

TRD-202403571
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: September 15, 2024
For further information, please call: (512) 239-6087

♦ ♦ ♦

TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 4. TREASURY ADMINISTRATION

SUBCHAPTER A. POOLED COLLATERAL PROGRAM

34 TAC §4.121

Texas Commission on Environmental Quality

ORDER ADOPTING AMENDED RULES

Docket No. 2024-0550-RUL

Rule Project No. 2024-015-290-OW

On December 18, 2024, the Texas Commission on Environmental Quality (Commission) adopted amended rules in 30 Texas Administrative Code (TAC) Chapter 290 and 30 TAC Chapter 291, implementing laws enacted during the 88th Legislative Session related to public drinking water. The proposed rules were published for comment in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6165).

IT IS THEREFORE ORDERED BY THE COMMISSION that the amended rules are hereby adopted. The Commission further authorizes staff to make any non-substantive revisions to the rules necessary to comply with *Texas Register* requirements. The adopted rules and the preamble to the adopted rules are incorporated by reference in this Order as if set forth at length verbatim in this Order.

This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Tex. Gov't Code Ann., Chapter 2001 (West 2016).

If any portion of this Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

_____
Jon Niermann, Chairman

_____
Date Signed

DRAFT