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Report to the Governor:

Public Water System Capacity Development Program

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Water Supply Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Report to the Governor:

Public Water System Capacity Development Program

Prepared by
Water Supply Division

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EXECUTIVE SUMMARY

The Texas Commission on Environmental Quality (TCEQ) is the primary state agency authorized to enforce the federal 1996 Amendments to the Safe Drinking Water Act (SDWA). The TCEQ enforces the SDWA through the implementation of state and federal rules and regulations for public water systems.

The 1996 reauthorization of, and amendments to, the federal SDWA Section 1420(c)(3) state:

> Not later than 2 years after the date on which a state first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the state agency that has primary responsibility to carry out this title in the state shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial and financial capacity of public water systems in the state.

The report to the Governor describes the TCEQ's implementation and enforcement authority for the public drinking water and capacity development programs. This report will be made available to the public on the TCEQ's web site.

BACKGROUND

The 1996 Amendments to the SDWA made significant contributions to the national drinking water agenda. One of these was the introduction of capacity development programs that recognized the importance of creating and maintaining viable public water systems. Implementation of capacity development programs provided a framework for both states and federal governments to work with public water systems to ensure they acquire and maintain necessary financial, managerial and technical (FMT) "capacity." This capacity can provide public water systems with the knowledge and resources to meet the public health goals of the SDWA, while providing customers with reliable and affordable water service. As part of the amendments to the SDWA, states were required to submit capacity development strategies to the United States Environmental Protection Agency (EPA). These strategies explain how the states addressed FMT issues for new and existing public water systems.

The EPA approved the TCEQ's Capacity Development Strategy for new and existing water systems on July 16, 1999, and July 6, 2000, respectively. This approval made Texas eligible for the SDWA's Drinking Water State Revolving Fund (DWSRF) grant funds. The DWSRF grant program provides loan funds for water system improvements through the Texas Water Development Board (TWDB). Set-asides from the DWSRF grant help support the Texas drinking water program at TCEQ, which includes capacity development. To meet the requirements of SDWA Section 1420(a), TCEQ must document that it has implemented a functional Capacity Development Program. This program must include:

- A basis of authority;
- Control points for execution of authority; and
- A plan or strategy for program implementation and evaluation.

Control Points

The EPA grants the TCEQ authority as the state primacy agency for drinking water quality through state laws, regulations and policies. The TCEQ's control points for exercising its authority to ensure public water systems have adequate capacity are through facility plan review, operator certification, construction requirements, source water protection plans, and system planning requirements.

In 2013, the Texas legislature passed House Bill (HB) 1600, which transferred the water and wastewater utility regulatory program from the TCEQ to the Public Utility Commission (PUC), effective September 1, 2014. The TCEQ kept primacy of the public drinking water programs, including capacity development.

Until 2014, the TCEQ used two sets of control points: one was through the public drinking water program, and the other was through the water utility rates and services program. Since 2014, the PUC and TCEQ continued to coordinate the work on the two control point reviews. Using a Memorandum of Understanding as guidance, the two agencies meet monthly and communicate frequently. The TCEQ has oversight and control points for new public water systems and the PUC has oversight and control points over new water and wastewater utilities. In addition to submitting plans and specifications, the TCEQ's control points include requiring new public water systems to:

- Apply for service from adjacent public water systems and provide written documentation of those applications and responses; and
- Submit a business plan that documents the financial ability to construct the system according to TCEQ requirements.

The PUC's control points include requiring new water and wastewater utilities applying for new Certificates of Convenience and Necessity (CCN) to submit FMT information for approval.

Capacity Development Strategy

The TCEQ's Capacity Development Strategy is geared to promote the viability of public water systems by developing public water systems' FMT capacity to meet both federal and state drinking water rules and regulations.

The four main objectives of the TCEQ's Capacity Development Program are:

- Ensuring that new systems are viable;
- Assessing the viability of existing systems;
- Improving the viability of existing systems; and
- Assisting nonviable systems in restructuring.

In the last three years, the TCEQ continued to implement this strategy through a variety of activities, including:

- On-site FMT assistance by both contractors and TCEQ staff;
- Optimization programs, including voluntary and mandatory performance evaluations;
- Streamlining rule and approval projects;
- Monitoring and assisting public water systems affected by drought;
- Increasing focus on process control and training for distribution system operations;
- Presentations at workshops and conferences; and
- Water system restructuring and regionalization projects.

DRINKING WATER STATE REVOLVING FUND (DWSRF)

TCEQ and the Texas Water Development Board (TWDB) both have programs associated with the DWSRF. TWDB administers the DWSRF loan program. The objectives of the loan program are to address public health priorities, achieve compliance with the SDWA, assist systems in providing affordable drinking water, and maintain the long-term viability of the fund.

To support the loan program, TCEQ worked closely with TWDB during the last three years on DWSRF project ranking, reviewing applicant FMT reports, pre-application meetings, TWDB financial assistance workshops, needs assessments and set-asides. The primacy drinking water agency is required to prepare reports assessing the FMT capacities of DWSRF loan applicants.

- In FY 2015, TCEQ staff researched and prepared 33 reports on DWSRF applicants;
- In FY 2016, TCEQ staff researched and prepared 17 reports on DWSRF applicants for TWDB; and
- In FY 2017, staff researched and prepared 54 reports on DWSRF applicants.

DWSRF Set-Asides

The DWSRF set-aside program is outlined in Section 1452 of the SDWA, which authorizes states to use a portion of the Federal Capitalization Grant to set-aside funds to support various drinking water programs. As much as 31% of a State's Federal Capitalization Grant can be used for a combination of Administrative Activities (4%), Technical Assistance (2%), State Program Management (10%) and Local Assistance (15%). The set-asides provided important funding for capacity development activities.

INTRODUCTION: PUBLIC DRINKING WATER SYSTEMS IN TEXAS

During Fiscal Year (FY) 2015, TCEQ regulated 6,936 public water systems that provided drinking water to 27,003,831 customers. Of these customers, approximately:

- 26,208,720 received drinking water from 4,630 community water systems;
- 517,200 received drinking water from 904 non-transient non-community water systems; and
- 277,911 received drinking water from 1,402 transient non-community water systems.

FY 2015 PWS Classifications and Populations Served

EPA Classification	Population Range	Number of PWSs	Population Served
Very Small	25 – 500	4,128	673,469
Small	501 – 3,300	1,799	2,589,007
Medium	3,301 – 10,000	675	3,778,188
Large	10,001 – 100,000	298	7,723,436
Very Large	Over 100,000	36	12,239,731
Total		6,936	27,003,831

During FY 2016, TCEQ regulated 6,915 public water systems that provided drinking water to 27,263,367 customers. Of these customers, approximately:

- 26,478,191 received drinking water from 4,649 community water systems;
- 509,851 received drinking water from 873 non-transient non-community water systems; and
- 275,325 received drinking water from 1,393 transient non-community water systems.

FY 2016 PWS Classifications and Populations Served

EPA Classification	Population Range	Number of PWSs	Population Served
Very Small	25 – 500	4,111	671,653
Small	501 – 3,300	1,781	2,580,345
Medium	3,301 – 10,000	688	3,877,626
Large	10,001 – 100,000	299	7,767,035
Very Large	Over 100,000	36	12,366,708
Total		6,915	27,263,367

During FY 2017, TCEQ regulated 6,959 public water systems that provided drinking water to 27,768,450 customers. Of these customers, approximately:

- 26,980,771 received drinking water from 4,660 community water systems;
- 506,129 received drinking water from 882 non-transient non-community water systems; and
- 281,550 received drinking water from 1,435 transient con-community water systems.

FY 2017 PWS Classifications and Populations Served

EPA Classification	Population Range	Number of PWSs	Population Served
Very Small	25 – 500	4,159	673,567
Small	501 – 3,300	1,767	2,563,835
Medium	3,301 – 10,000	693	3,907,752
Large	10,001 – 100,000	303	7,871,304
Very Large	Over 100,000	37	12,751,992
Total		6,959	27,768,450

WATER SYSTEM ASSISTANCE AND OPTIMIZATION

Financial, Managerial, & Technical Assistance

The FMT Assistance Contract remained a vital tool to assess and assist public water systems. In FY 2016, the TCEQ solicited entities for a new FMT Assistance Contract. The contract was awarded to the Texas Rural Water Association (TRWA), which, in turn, subcontracted with four assistance providers. The FMT Assistance Contract works to improve the FMT capabilities of public water and wastewater systems through five primary objectives:

- FMT Capacity Assessments
- Consolidation Assessments
- FMT On-Site Assistance
- Drinking Water Operator Training (DWOT)
- Special Assistance

FMT Capacity Assessments are required for water systems applying for certain types of funding from the Texas Water Development Board (TWDB). The assessment outlines a public water system's strengths and identifies areas in need of improvement. The FMT Assistance contractor meets with the public water system's staff to evaluate the FMT capabilities of the system. Free on-site assistance is offered following this assessment to help the system meet or maintain regulatory compliance.

Consolidation Assessments help the system's management staff consider if consolidation with a neighboring system could solve long-running problems. The FMT Assistance contractor is assigned to look at the feasibility of two or more systems working together, possibly to the point of a merger. If TCEQ determines that consolidation is feasible and recommended, the PUC can also assist the system and other parties throughout the process to completion.

FMT On-site Assistance provides free, one-on-one, on-site support and education on a wide variety of topics to improve public drinking water and wastewater systems. If a system is experiencing operational difficulties, for example, assistance could help to avoid regulatory compliance violations.

Drinking Water Operator Training (DWOT) are also known as Directed Assistance Modules (DAMs). DAMs are training materials designed to enhance public water system knowledge on highly technical topics. Water Supply Division staff train the FMT Assistance contractors on how to deliver this training to public water system staff.

Special Assistance assignments do not fall into one of the previous four types of assistance. For example, TCEQ staff may issue a special assignment to help coordinate a meeting between a troubled water system, the community it serves, and TCEQ staff. Special Assignments have also been used to facilitate training workshops.

FMT Assistance Assignments Completed for FY 2015 through FY2017

Contract Objective	FY 2015 Completed Assignments	FY 2016 Completed Assignments	FY 2017 Completed Assignments
FMT Capacity Assessments	31	17	50
Consolidation Assessments	12	7	6
FMT On-site Assistance	613	449	357
DWOT	N/A	81	107
Special Assistance	23	17	16
Total	679	571	536

FMT Assistance Highlights

The FMT contractor worked with the City of Rising Star staff (Eastland County) to understand when and where cross-connections might occur in their water system. The contractor gave information to city staff on connections that should have testable backflow devices in place, and when and how to use customer service inspections to look for possible cross-connections. The City is currently working on instituting a Cross-Connection Control Program.

The City of River Oaks Water System is a municipal water system in Tarrant County, near the City of Fort Worth, Texas. In the past year, the FMT Assistance program has helped the system with regulatory guidance, chemical violations, disinfection byproducts, staff and board training, flushing, water loss tracking, and capacity assessment. FMT assistance has also included attending city council meetings and providing education to the council and the public. To date, the City of River Oaks is beginning a trend of maintaining compliance and overall sustainability.

The W. Oaks Phoenix Corporation PWS in Hunt County had been operated by a court-appointed receiver since May 2004, but the receivership appointment was scheduled to end in June 2016. Efforts to locate another receiver or someone to operate W. Oaks Phoenix were initially unsuccessful and no other utility company or individual expressed interest in acquiring the system. In May 2016, the FMT contractor assisted TCEQ staff by holding a community meeting for the customers to discuss options for the system, which included drilling private wells or

forming a Water Supply Corporation (WSC). Following the meeting, the customers decided to form a WSC and additional FMT assistance was provided to form the WSC and develop bylaws.

On-Site Assistance & Optimization

The TCEQ Water Supply Division in the Office of Water, has provided extensive on-site assistance to public water systems struggling with water outages, cross-connection events and other serious issues. The division has made important contributions to the capacity development of many public water systems by improving their ability to produce and distribute safe drinking water. One of the ways this is accomplished is through Comprehensive Performance Evaluations and Special Performance Evaluations.

A Comprehensive Performance Evaluation (CPE) is an in-depth investigation, including special scientific studies, of the design, operations, maintenance, and administrative factors that limit the performance of a surface water treatment plant to remove potential pathogens during the process of treating surface water to produce potable water. A Special Performance Evaluation (SPE) is an investigation of the design, operation, maintenance, and administrative components of a surface water treatment plant that affects the removal of potential pathogens during the process of treating surface water to produce potable water. An SPE does not include identification of performance-limiting factors.

- In FY 2015, Water Supply Division staff performed six Special Performance Evaluations (SPEs), three Comprehensive Performance Evaluations (CPEs), and evaluated and assisted with distribution system issues at three public water systems. Staff also provided technical assistance to 10 public water systems, developed training materials, and participated in fifteen training sessions for TCEQ staff, contractors and water systems.

- In FY 2016, Water Supply Division staff performed three SPEs, three CPEs, and provided Revised Total Coliform Rule (RTCR) assistance to nine water systems. The Revised Total Coliform Rule protects public health by reducing potential pathways for fecal contamination into public drinking water distribution systems. Water Supply Division staff presented 21 training sessions to TCEQ employees and potential, third-party providers for Revised Total Coliform Rule Level 2 Assessments.

- In FY 2017, Water Supply Division staff performed one SPE and five CPEs. Staff also provided onsite assistance for Revised Total Coliform Rule Level 2 Assessments at 22 water systems.

Cross-Connection Control

TCEQ Water Supply Division staff assisted public water systems with protecting their potable water supply by providing guidance on complying with the TCEQ's backflow and siphonage regulations. Each year, staff activities included:

- Technical presentations on cross-connection control and backflow prevention;
- Assistance to water systems during backflow events;
- Updates to regulatory guidance documents; and
- Facilitation of the TCEQ's Cross-Connection Control Subcommittee.

In 2015 and 2016, staff conducted on-site cross-connection control program surveys of water systems in the Dallas/Ft. Worth and Houston regions. Regional investigators accompanied cross-connection staff during these surveys for staff training.

Regionalization & Restructuring: At-Risk Systems, Receiverships, and Temporary Managers

The Water Supply Division identifies, assists, and helps restructure at-risk or failing public water systems. Assistance is provided through free, on-site FMT Assistance referrals which include consolidation assessments, restructuring assistance, and addressing compliance issues. Staff members also assist these systems by coordinating community meetings and connecting the systems with funding agencies.

Voluntary restructuring is always the preferred method to get an at-risk or noncompliant system under new management. TCEQ provided free, on-site assistance for systems wanting to restructure or form new entities. Temporary management and receivership are tools used as a last resort.

Sometimes the situations at at-risk systems were grave enough that traditional assistance such as consolidation assessments did not work. In those cases, more formal restructuring through enforcement and the appointment of temporary managers and/or receivers was required. In 2015, TCEQ staff worked with the PUC to appoint one temporary manager, and tracked 23 active cases of receivership and temporary management. In 2016, staff worked with the PUC to appoint one temporary manager and tracked 15 active cases of receivership and temporary management. In 2017, TCEQ appointed or re-appointed four temporary managers and tracked 15 active cases of receivership and temporary management.

TRAINING AND COORDINATION

Annual Public Drinking Water Conference

Every August since 2003, TCEQ has held the Public Drinking Water Conference in Austin. This popular, free conference attracts over 800 attendees every year. Participants included water system operators and managers, TCEQ staff, other state and federal agencies, exhibitors, speakers, laboratory professionals and engineers from across the state. Each year the focus is slightly different, but there are always updates on rules and regulations, and pertinent topics such as the Revised Total Coliform Rule (RTCR), lead and copper information, chloramines, cross-connection control, corrosivity, optimization, funding and source water protection.

Texas Water Infrastructure Coordination Committee (TWICC)

The goal of TWICC is to provide a “one-stop shop” for funding and other assistance for water and sewer providers, to help them address compliance and infrastructure issues. TWICC members include representatives from the TCEQ Water Supply Division, as well as other state and federal government agencies, and members of the private sector. In the last three years, TWICC provided assistance and outreach at conferences, meeting and workshops.

<u>TWICC Assistance Highlights</u>

In 2016, the City of Cisco participated in a TWICC meeting to discuss their need for funding following a catastrophic flood that put their water treatment plant 20 feet under water. In the summer of 2016, TWICC assisted Midland County Utility District look for funding to form a new district. In 2017, TWICC members participated in two workshops hosted by TCEQ in Ranger, Texas. The focus of the first workshop was funding, regionalization and compliance issues, while the second workshop addressed water loss and rate setting.

EMERGENCY AND DROUGHT RESPONSE

Emergency Response

Since 2015, TCEQ supported and promoted statewide emergency preparedness, disaster response, and mutual assistance matters, for public and private water, and wastewater utilities through TXWARN. TXWARN's website provides members with emergency planning, response and recovery information. At the core is the Emergency Equipment Database, which matches utility resources to members' needs during an emergency.

Emergency response activities by the TCEQ Water Supply Division included:

- In FY 2015, TCEQ Water Supply Division staff participated in hurricane, spill, and natural disaster response tabletop exercises, held four TXWARN regional workshops for local water systems, and attended the National Hurricane Conference and the Texas Department of Emergency Management Conference.
- In FY 2016, TCEQ Water Supply Division staff participated in hurricane, spill, and natural disaster response tabletop exercises and held one TXWARN regional workshop on Cyber Security. TXWARN was activated to assist with the tornado event that occurred in December 2015, and the floods that occurred in May and June of 2016.
- In FY 2017, TCEQ Water Supply Division staff provided assistance and support to 12 water systems that experienced water outages and/or loss of pressure for more than a 24-hour period. Staff also tracked 19 water systems located in the Tyler Region which were affected by the May 2, 2017 tornadoes.

Hurricane Harvey made landfall on August 25, 2017 as a Category 4 storm and stalled over southeastern Texas for several days. Due to its slow motion and a prolonged period of onshore flow, the impacted areas received more than 50 inches of precipitation that produced catastrophic flooding. Approximately 500 TCEQ staff were involved in hurricane landfall response and recovery at its peak.

Emergency Preparedness and Response Efforts for Hurricane Harvey

In advance of the storm, the Water Supply Division developed a questionnaire and began contacting surface water and groundwater community public water systems along the south central coastal regions to determine the status of public water system disaster preparedness. To assist systems in this effort, the Water Supply Division developed a pump and chemical protection reference guide to help assist systems in protecting plant equipment, assessing chemical treatment inventory, and fuel needs to prepare for the hurricane.

Additionally, the Water Supply Division sent an email to water systems and operators in the potentially impacted areas prior to hurricane landfall. The email included the requirements for issuing a boil water notice and provided boil water notice templates that the systems could use, contact information for technical assistance needs, and TXWARN information. TXWARN supports and promotes statewide emergency preparedness, disaster response, and mutual aid assistance for public and private water and wastewater utilities.

The Water Supply Division began contacting suppliers of drinking water treatment chemicals throughout the United States to ensure an adequate inventory was on hand and could be sent to Texas in the event that systems and manufacturers lost their chemical treatment supplies. Manufacturers of portable water testing equipment were also contacted to verify that an adequate supply of testing equipment could be made available to Texas if plant equipment was inoperable or destroyed. A vast amount of regulatory guidance as well as information for

private well owners, support material, and other useful information was posted under the Hurricane Harvey Response link on TCEQ's main web page.

In responding to the devastation created by Hurricane Harvey, the Water Supply Division began immediately contacting public water systems in the impacted areas through phone calls and on-site visits to ascertain operational status. The EPA also deployed personnel to assist the TCEQ with this effort. Between August 27 and September 18, 2017, the Water Supply Division and EPA contacted approximately 2,378 public water systems (community and non-transient non-community systems).

The TCEQ and its partners' efforts were focused on assessing and providing technical assistance to public water systems that were either damaged or suffered operational issues. All requests for assistance and/or operational needs were routed through the State Operations Center and Local Emergency Operations Centers for multi-agency response action.

The TCEQ began daily conference calls with local, state, and federal officials to begin planning and pinpointing potential operational needs for the impacted areas. Assistance teams, staffed with engineers and other public water system experts from the Water Supply Division's Texas Optimization Program were sent to the impacted area to work directly with water system staff at their facilities to expedite the reestablishment of service to their customers.

Expedited Emergency Approvals

To ensure recovery efforts were not impacted, the Water Supply Division expedited the review and approval of engineering plans and specifications and other emergency applications for new wells, waterlines and/or interconnection with other water sources, and for repairs and/or replacement of various types of infrastructure. The Water Supply Division approved 16 emergency projects typically within 1-2 days of receipt.

Drought Response

On July 5, 2011, the Texas Governor issued an Emergency Disaster Proclamation due to drought, which remained in effect until June 2015. It certified that exceptional drought conditions posed a threat of imminent disaster in specific Texas counties and the Emergency Drinking Water Task Force was formed to monitor and assist public water systems being impacted by drought.

Public water systems that self-report having 180 days or less of available water are put on the TCEQ's High Priority Drought Systems List, and contacted every other week. Public water systems that are being affected by drought conditions and report having greater than 180 days of water availability are placed on the TCEQ's Watch Systems List and contacted monthly. Significant rains in May 2015, and continued precipitation in 2016 and 2017, have provided relief from drought. Prior to those rains, many public water systems struggled with reduced water supply. Even with the improved drought conditions, the Task Force continued to meet bi-weekly at TCEQ to monitor the remaining systems. At the peak of the drought in FY 2014, there were 58 public water systems which self-reported having less than 180 days of water supply. Currently, there are three systems on the high-priority drought list, and 12 being monitored on the drought watch list. 123 systems have been moved to the drought resolved/success list.

FIELD INSPECTIONS & COMPLAINT INVESTIGATIONS

Public water system investigators work out of the TCEQ's Office of Compliance and Enforcement (OCE) Regional Offices. They worked closely with the public water systems in their regions, and conducted comprehensive compliance investigations, responded to emergencies and complaints, and provided technical assistance.

OCE Region Office Activities FY 2015 through August 2017

Description	FY 2015	FY 2016	FY 2017
Comprehensive Compliance Investigations	2,686	2,160	1,791
Complaint Responses	649	850	968

OPERATOR CERTIFICATION & WORKFORCE ISSUES

In FY 2015, the state of Texas had approximately 5,574 PWSs that were required to have an Operator in Responsible Charge (ORC). In FY 2016, the state of Texas had approximately 5,542 PWSs that were required to have an ORC. Systems not meeting the requirement were issued notices of enforcement. To assist these systems, the agency provided the names of licensed operators of neighboring systems, lists of operating companies, and training schedules, and testing times and locations for certification.
In FY 2015:

- There were approximately 16,445 licensed Texas water system operators.
- TCEQ processed approximately 6,066 new and renewal applications for water operator licenses.
- There were approximately 2,145 new water operator licenses issued and 3,921 water operator licenses renewed.

In FY 2015, the Commission adopted rules which implemented the following legislation passed by the 84th Texas Legislature, 2015 Regular Session:

- Senate Bill 807, which amended Texas Occupations Code 55.009; and
- Senate Bill 807, which amended Texas Occupations Code 55.001, 55.002, 55.003, 55.004, 55.005, 55.006, and 55.009.

In FY 2016:

- There were approximately 16,479 licensed Texas water system operators.
- TCEQ processed approximately 5,431 new and renewal applications for water operator licenses.
- There were approximately 1,948 new water operator licenses issued and 3,483 water operator licenses renewed.

In FY 2017:

- There were approximately 16,415 licensed Texas water system operators.
- TCEQ processed approximately 7,533 new and renewal applications for water operator licenses.
- There were approximately 2,158 new water operator licenses issued and 3,985 water operator licenses renewed.