

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** June 20, 2008

Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: Dan Eden, Deputy Director
Office of Permitting, Remediation and Registration

Docket No.: 2007-0996-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 293, Water Districts
House Bill (HB) 576, HB 1127, HB 1886, HB 2984, HB 3378, HB 3770, and Senate Bill
(SB) 657: Water Districts
Rule Project No. 2007-047-293-PR

Scope of the rulemaking:

This rulemaking amends Chapter 293 by establishing new requirements or revising existing requirements relating to the administration and supervision of water districts to implement legislation from the 80th Legislative Session, 2007, including House Bill (HB) 576, HB 1127, HB 1886, HB 2984, HB 3378, HB 3770, and Senate Bill (SB) 657.

Reasons for the rule package:

During the 80th Legislative Session, 2007, HB 576, HB 1127, HB 1886, HB 2984, HB 3378, HB 3770, and SB 657 were passed. This legislation amended Texas Water Code (TWC), Chapters 49, 53, and 54, and Local Government Code, Chapter 271. This adoption rulemaking will implement these changes by amending Chapter 293, Water Districts.

Statutory Authority:

TWC, §5.103 provides the commission's authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state.

Potentially controversial matters:

Stakeholders may pursue having rule language to effect commission review of bonds for roads by water districts, which was removed from the 2005-058-293-PR rule project. As noted under PUBLIC COMMENT below, a commenter stated that the commission should make a determination whether it will adopt rules regarding the review and approval of proposed district road bonds considering the requirement of TWC, §49.181(a). The drafted response states the commission declines to issue rules for reviewing road bonds without clear express authority from the Legislature.

Public comment:

The commission held a public hearing for this rule on March 27, 2008 in Austin, Texas and no comments were received at that hearing. The public comment period for this rulemaking closed on March 31, 2008. The commission received comments from Allen, Boone, Humphries, Robinson, LLP on behalf of the Utility District Advisory Corporation (UDAC).

UDAC commented that rule changes should more closely follow language in the legislation. UDAC considered that rules regarding acquisition of road powers should be modified to include directives when

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bonds for roads are issued. UDAC also commented that commission rules should include guidance on review of district bonds for road facilities.

Significant changes from proposal:

None.

Key points in adoption rulemaking schedule:

<i>Texas Register</i> proposal publication date:	February 29, 2008
Six-month <i>Texas Register</i> filing deadline:	August 29, 2008
Anticipated <i>Texas Register</i> publication date:	July 25, 2008
Anticipated effective date:	July 31, 2008

Agency contacts:

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Attachments

cc: Chief Clerk, 5 copies
Executive Director's Office
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