



April 7, 2016

*Via Email to RulesComments@twdb.texas.gov*

Mr. Jeff Walker, Deputy Executive Administrator  
Texas Water Development Board  
P.O. Box 13231  
Austin, Texas 78711-3231

Re: 2016 Planning Rulemaking; Preliminary Comments Responding to Notice of Intent to Propose Amendments to Chapters 357 and 358 of the Agency's Water Planning Rules

Dear Mr. Walker:

The Central Texas Water Coalition "CTWC) is pleased to submit these comments in response to the Texas Water Development Board's (TWDB's) notice of its intent to propose amendments to 31 Texas Administrative Code (TAC) Chapters 357 (entitled Regional Water Planning) and 358 (entitled State Water Planning Guidelines). CTWC is a non-profit organization advocating for responsible water management and conservation policies for the State of Texas including the Highland Lakes of Central Texas. Partners of the Coalition include lake residents, business owners, local government officials, property owner associations, environmentalists, and other entities with interests in protecting this critical drinking water supply. We view the water planning work of the TWDB and the Regional Water Planning Groups (RWPGs) as extremely important to the successful, long-term preservation and management of our state's water resources.

Please consider the following general comments:

1. Additional Guidance for RWPG Governance and Bylaws. While there are benefits of continuity and institutional knowledge in the complicated world of state water planning, it can also lead to a reluctance to change from the way things were done in the past. In today's increasingly difficult water supply and planning environment, new ideas and innovative thinking should be encouraged at every level. With this in mind, for the benefit of all interests, the TWDB rules should include additional guidance on the governance of the RWPGs, either by more specific regulatory provisions or by specific guidance regarding the required elements of a RWPG's bylaws. For example, a rule could address these topics:
  - Elections for Positions in RWPGs: Provide guidance on minimum criteria for election procedures (including secret balloting and providing advance public notice of open positions for officers within the RWPG and for open positions on the Planning Group itself);
  - Elections: Encourage RWPGs to elect a Chair for a maximum of one five-year planning cycle, and to elect Officers for a maximum of 7 years (except when an Officer is moving into the position of the Chair);
  - Accountability: Develop a process and require all RWPGs to follow the process to insure periodic and frequent input from their represented entities.
  - Project Procedures: Revise Section 16.053 by adding sections to:

- ❖ Provide uniform procedures for the presentation of projects to RWPGs for their consideration and presentation and consideration of opposition to projects; and
  - ❖ Establish a list of considerations the RWPG must use when determining whether a project will be included as a water supply strategy in its Plan. These considerations should include such issues as:
    - whether the project would fill a current or projected water supply need in the region;
    - whether a project to develop less water or that otherwise has less impact on the environment and other water right holders and exempt domestic and livestock users would be adequate to meet the water supply need to be filled by the proposed project (in other words, whether the project is bigger than it needs to be to meet the need); and
    - whether the project’s sponsor has provided adequate information to support the project’s inclusion in the Regional Water Plan.
- Open meetings: Require RWPGs to prepare minutes or summaries of all discussions and recommendations developed by committees and subcommittees; and
  - Open meetings: Assure that all RWPG members and alternates are provided with copies of all documents reviewed, considered, or developed in committee and subcommittee meetings. To facilitate training and maximize resource utilization, allow both members and alternates to attend all committee and subcommittee meetings.
2. Timing and Sufficiency of Review of Regional Water Plans. Revise the rules to require that RWPG members be given ample time to review draft chapters and other materials proposed for discussion and/or decision in a RWPG meeting. In addition, assure that there is a sufficient time period between the publication of an Initially Prepared Plan (IPP) for public comment and the submittal of a Final Regional Water Plan (RWP) to the TWDB to allow the RWPG to review and deliberate over all public comments that are received. In other words, provide for sufficient time for meaningful reviews and responses to issues raised during public comment periods, as well as other issues raised by individual RWPG members during the course of a planning cycle.
  3. Training for RWPG Members. Require annual training for RWPG members on the topics of Open Meetings, Roberts Rules of Order, and water topics (law, policy, science).
  4. TWDB Resource Staff. Assure that a TWDB staff member is present and actively participating as a resource at all RWPG meetings.
  5. Waiver for Good Cause. In order to avoid situations creating unnecessary or meaningless burdens for a RWPG, add a broad regulatory provision allowing RWPGs to request a waiver from a specific regulatory requirement. The waiver process could provide relief from new rules or requirements that are considered unduly burdensome on some RWPGs or their members, and the TWDB could grant such a waiver in response to an RWPG’s showing of good cause. For example, in Regional Water Planning Areas that experience insignificant changes from year-to-year, the RWPG could request a waiver from certain rules that impose unnecessary burdens without corresponding benefits.

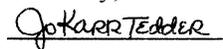
6. Procurement of Technical and Consulting Services by RWPGs. Clarify and expand upon the rules governing the proper process for RWPGs to procure technical and other professional services, so that all members of the RWPG are aware of the process and can participate in a meaningful way. Establish a uniform statewide requirement for procurement of professionals by a RWPG, instead of allowing the administrative agents within the various RWPGs to apply their own individual procurement rules. A competitive selection process should be required before a RWPG chooses its primary consultant for each planning cycle.

To minimize the impact on the routine work of a RWPG, these new uniform procurement requirements could be applied only to certain contracts above a minimum dollar amount, such as \$5,000, or only to contracts for which the administrative agent of the RWPG, acting on behalf of the RWPG, will be receiving state funds to pay for the professional services being procured. The current procurement process, at least in some Regions, seems difficult to follow. With huge amounts of state funds at stake, we would urge the TWDB to revisit the rules and provide clear and consistent regulatory standards for RWPGs to follow when retaining professional services to perform the important work needed by each RWPG.

In addition to the general comments above, CTWC supports the portions of the proposed revisions outlined in the “TWDB Planning Rule Revision under Consideration” dated February 22, 2016 that would provide additional public notice of an activity or opportunity for comment, and that would provide clarifications or additional definitions or procedures for use in the state’s water planning processes. We also agree with the suggestions to make revisions to more explicitly describe the handling of matters brought to the TWDB Board, and the suggestion to add procedures allowing RWPGs to make minor corrections to approved RWPs or in the state water planning database.

Thank you for the opportunity to provide input in this important undertaking, and please contact me at (512) 755-4805 [jokarrtedder.ctwc@gmail.com](mailto:jokarrtedder.ctwc@gmail.com) if you have any questions or if we can be of any assistance as you proceed with this significant rulemaking work.

Sincerely,



Jo Karr Tedder  
President

cc: Ms. Temple McKinnon (via email to [temple.mckinnon@twdb.texas.gov](mailto:temple.mckinnon@twdb.texas.gov))

CENTRAL TEXAS WATER COALITION  
P O BOX 328, SPICEWOOD, TX 78669  
[www.CentralTexasWaterCoalition.org](http://www.CentralTexasWaterCoalition.org)

Central Texas Water Coalition is a 501(c)(4) non-profit, non-tax deductible organization.