



Legislation Text

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Consider recommendation from EAA staff to approve a Final Order Adopting Rules related to the following Chapters of the EAA rules: Chapter 702 (Definitions); Chapter 707 (Procedure Before the Authority); Chapter 709 (Fees); Chapter 711 (Groundwater Withdrawals), Chapter 713 (Water Quality), Chapter 715 (Comprehensive Water Management), and Chapter 717 (Enforcement).

STAFF RECOMMENDED MOTION:

Move the the board approve, through Resolution and Order No. 12-19-957 of the Edwards Aquifer Authority Board of Directors, a Final Order Adopting Rules amending the following chapters of the Edwards Aquifer Authority Rules and authorize the General Manager to take all actions required by law to implement the Final Rules:

Chapter 702 Definitions;

Chapter 707 (Procedure Before the Authority)

Subchapter E (Actions on Applications)

Subchapter F (Procedures for Contested Case Hearings)

Chapter 709 Fees

Subchapter B (Registration Fees)

Subchapter C (Permit Application Fees)

Subchapter D (Aquifer Management Fees)

Subchapter E (Administrative Fees)

Chapter 711 Groundwater Withdrawals

Subchapter C (Exempt Wells)

Subchapter D (Limited Production Wells)

Subchapter E (Groundwater Withdrawal Permits)

Subchapter L (Administration of Permits)

Chapter 713 Water Quality

Subchapter C (Well Construction, Operation and Maintenance)

Subchapter D (Well Closures)

Chapter 715 Comprehensive Water Management

Subchapter E (Critical Period Management Plan); and

Chapter 717 Enforcement.

SUMMARY:

The purpose of this agenda item is for the board to consider approval of a Final Order Adopting Rules (FOAR) amending the following Chapters and Subchapters of the EAA rules:

Chapter 702 (Definitions); Chapter 707 (Procedure Before the Authority), Subchapter E (Actions on Applications) and Subchapter F (Procedures for Contested Case Hearings); Chapter 709 (Fees), Subchapter B (Registration Fees), Subchapter C (Permit Application Fees), Subchapter D (Aquifer

Management Fees), and Subchapter E (Administrative Fees); Chapter 711 (Groundwater Withdrawals), Subchapter C (Exempt Wells), Subchapter D (Limited Production Wells), Subchapter E (Groundwater Withdrawal Permits), and Subchapter L (Administration of Permits); Chapter 713 (Water Quality), Subchapter C (Well Construction, Operation and Maintenance) and Subchapter D (Well Closures); Chapter 715 (Comprehensive Water Management), Subchapter E (Critical Period Management Plan); and Chapter 717 (Enforcement).

This rulemaking incorporates amendments to the EAA Act resulting from the passage of HB3656 during the 86th Regular Session of the Texas Legislature. These amendments clarify the EAA's authority to approve conversions of Base Irrigation Groundwater ("BIG") to Unrestricted Irrigation Groundwater ("UIG"), limit the types of actions that qualify for such conversions, and incorporate contested case hearing requirements, which will provide an opportunity for a permit holder to request a contested case hearing regarding a conversion of BIG rights to UIG.

The rulemaking also incorporates amendments to the EAA Act resulting from the passage of HB2729 and SB520 during the 86th Regular Session of the Texas Legislature. HB 2729 clarified that Chapter 36 of the Texas Water Code as a whole does not apply to the EAA and directly incorporated into the EAA Act language from Chapter 36 that was not otherwise contained in Chapter 49. In addition, the bill removed two provisions within the EAA Act that had become obsolete. The bill was intended to accomplish three things: (1) eliminate confusion between the requirements in Chapter 36 and the EAA Act; (2) prevent the EAA's unique management requirements from hindering state-wide groundwater policy development; and (3) provide certainty to EAA permit holders and interested stakeholders in the Edwards Aquifer Habitat Conservation Plan and established water market. SB520 required the incorporation of new injection well allowances associated with the expansion of allowable source water for New Braunfels Utilities' Aquifer Storage and Recovery Demonstration Project.

Finally, the proposed rulemaking changes the current process for an irrigator to seek exemption from critical period management permit curtailments. Under the proposed rules, an irrigator would still receive protection from critical period reductions for crops that are in the ground. However, that protection, or exemption from drought restrictions, would be administered at the time of need rather than at the beginning of implementation of critical period management. Such a shift in timing is designed to make calculations for irrigator reductions more understandable and less complicated for both the irrigator and EAA staff.

Non-substantive changes to historical language that is no longer necessary to be included in current EAA rules are incorporated throughout the documents.

Attached to this summary is a Final Order Adopting Rules (FOAR), which includes clean and redlined versions of the Final Rules, Reasons and Justification for the rulemaking, and an assessment performed under the Texas Private Real Property Rights Preservation Act. Each portion of the FOAR is attached as a separate document for ease of review.

M/WBE PARTICIPATION:

This agenda item does not involve the procurement of goods or services by the EAA and, therefore, this section is not applicable.

STRATEGIC PLAN REFERENCE:

This agenda item does not relate to a specific goal or action step within the Strategic Plan, but supports the general EAA mission.

FISCAL IMPACT:

None.