

Texas Administrative Code

<u>TITLE 31</u>	NATURAL RESOURCES AND CONSERVATION
<u>PART 10</u>	TEXAS WATER DEVELOPMENT BOARD
<u>CHAPTER 363</u>	FINANCIAL ASSISTANCE PROGRAMS
<u>SUBCHAPTER A</u>	GENERAL PROVISIONS
<u>DIVISION 2</u>	GENERAL APPLICATION PROCEDURES
RULE §363.15	Required Water Conservation Plan

(a) An applicant, if not eligible for an exemption under subsection (c) of this section, shall submit, with its application, two copies of its water conservation plan for approval. The executive administrator shall review all water conservation plans submitted as part of an application for financial assistance for a project and shall determine if the plans meet the requirements of this section.

(b) The water conservation plan required under subsection (a) of this section must be new or revised to include five-year and ten-year targets for water savings, unless the applicant has, since May 1, 2005, implemented an approved water conservation plan that meets the requirements of this section, and that has been in effect for less than five years. The water conservation plan shall include an evaluation of the applicant's water and wastewater system and customer water use characteristics to identify water conservation opportunities and shall set goals to be accomplished by water conservation measures. The water conservation plan shall provide information in response to the following minimum requirements. If the plan does not provide information for each minimum requirement, the applicant shall include in the plan an explanation of why the requirement is not applicable.

(1) Minimum requirements. Water conservation plans shall include the following elements:

(A) a utility profile including, but not limited to, information regarding population and customer data, water use data, water supply system data, and wastewater system data;

(B) specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs in gallons per capita per day, and goals for municipal use, in gallons per capita per day;

(C) a schedule for implementing the plan to achieve the applicant's targets and goals;

- (D) a method for tracking the implementation and effectiveness of the plan;
 - (E) a master meter to measure and account for the amount of water diverted from the source of supply;
 - (F) a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement;
 - (G) measures to determine and control water loss (for example, periodic visual inspections along distribution lines; annual or monthly audit of the water system to determine illegal connections, abandoned services, etc.);
 - (H) a program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system;
 - (I) a program of continuing public education and information regarding water conservation;
 - (J) a water rate structure which is not "promotional," i.e., a rate structure which is cost-based and which does not encourage the excessive use of water;
 - (K) a means of implementation and enforcement which shall be evidenced by:
 - (i) a copy of the ordinance, resolution, or tariff indicating official adoption of the water conservation plan by the applicant; and
 - (ii) a description of the authority by which the applicant will implement and enforce the conservation plan;
 - (L) documentation that the regional water planning groups for the service area of the applicant have been notified of the applicant's water conservation plan; and
 - (M) a current drought contingency plan which includes specific water supply or water demand management measures and, at a minimum, includes, trigger conditions, demand management measures, initiation and termination procedures, a means of implementation, and measures to educate and inform the public regarding the drought contingency plan.
- (2) Additional conservation strategies. The water conservation plan may also include any other water conservation practice, method, or technique that the applicant deems appropriate.
- (c) Pursuant to Water Code §§15.106(c) 17.125(c), 17.277(c), and 17.857(c), an applicant is not required to provide a water conservation plan if the board determines an emergency exists; the amount of financial assistance to be provided is \$500,000 or less; or the board finds that implementation of a water conservation program is not reasonably necessary to facilitate water conservation; or the application is for flood control purposes under Water Code, Chapter 17, Subchapter G.
- (1) An emergency exists when:
- (A) a public water system or wastewater system has already failed, or is in a condition which poses an imminent threat of failure, causing the health and safety of the citizens served to be endangered;
 - (B) sudden, unforeseen demands are placed on a water system or wastewater system (i.e.,

because of military operations or emergency population relocation);

(C) a disaster has been declared by the governor or president; or

(D) the governor's Division of Emergency Management of the Texas Department of Public Safety has determined that an emergency exists.

(2) If the board determines that an emergency exists and commits to financial assistance without requiring a water conservation plan, the applicant must report whether the emergency continues to exist every six months after the board commits to financial assistance. If the Executive Administrator finds that the emergency no longer exists, the applicant must submit a water conservation plan within six months of the finding.

(d) Pursuant to Water Code §§15.106(d)(e), 15.208(d), 17.125(e), 17.277(e), and 17.857(e), if the applicant will utilize the project financed by the board to furnish water or wastewater services to another entity that in turn will furnish the water or wastewater services to the ultimate consumer, the applicant shall:

(1) submit its own water conservation plan before closing on the financial assistance; and

(2) submit the other entity's water conservation plan, if one exists, before closing on the financial assistance; and

(3) require, by contract, that the other entity adopt a water conservation plan that conforms to the board's requirements and submit it to the board. If the requirement is to be included in an existing water or wastewater service contract, it may be included, at the earliest of the renewal or substantial amendment of that contract, or by other appropriate measures.

(e) The board will accept a water conservation plan determined by the commission to satisfy the requirements of 30 TAC Chapter 288 for purposes of meeting the minimum requirements of subsection (b) of this section.

(f) Water conservation plans that are submitted to the TCEQ and copied to the board under Water Code §16.402 must contain the applicable minimum requirements for water conservation plans established by the Commission in its rules at 30 TAC Chapter 288.

(g) Annual reports.

(1) Each entity that is required to submit a water conservation plan to the board or the commission, other than a recipient of financial assistance from the board, shall file a report not later than May 1, 2010, and annually thereafter to the executive administrator on the entity's progress in implementing each of the minimum requirements in the water conservation plan.

(2) Recipients of financial assistance from the board shall maintain an approved water conservation plan in effect until all financial obligations to the state have been discharged and shall file a report with the executive administrator on the applicant's progress in implementing each of the minimum requirements in its water conservation plan and the status of any of its customers' water conservation plans required by contract, within one year after closing on the financial assistance and annually thereafter until all financial obligations to the state have been discharged.

(3) Annual reports prepared for the Commission providing the information required by this

subsection may be provided to the board to fulfill the board's reporting requirements.

(h) The following are violations of board rules for purposes of Water Code §16.402:

(1) failure to submit a water conservation plan containing the minimum requirements in subsections (b) and (f) of this section; and

(2) failure to timely submit a complete annual report on the entity's progress in implementing its plan that addresses each element in its water conservation plan, as required by Water Code §16.402 and subsection (g) of this section.

Source Note: The provisions of this §363.15 adopted to be effective July 19, 1991, 16 TexReg 3768; amended to be effective June 8, 1995, 20 TexReg 3898; amended to be effective December 6, 2004, 29 TexReg 11368; amended to be effective December 25, 2007, 32 TexReg 9721; amended to be effective June 1, 2008, 33 TexReg 4327