

Tex. Admin. Code tit. 31, § 356.1

**C**TEXAS ADMINISTRATIVE CODE  
TITLE 31. NATURAL RESOURCES AND  
CONSERVATION  
PART 10. TEXAS WATER DEVELOPMENT  
BOARD  
CHAPTER 356. GROUNDWATER  
MANAGEMENT  
SUBCHAPTER A. GROUNDWATER  
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§ 356.1. Scope of Subchapter

This subchapter governs the board's procedures for reviewing and approving management plans as administratively complete, dealing with and resolving conflicts between management plans and the state water plan, and data collection training and reporting by districts.

**Source:** The provisions of this § 356.1 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective January 2, 2002, 26 TexReg 11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.1, 31 TX ADC § 356.1

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§ 356.2. Definitions of Terms

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Words defined in Texas Water Code, Chapter 36, Groundwater Conservation Districts, that are not defined here shall have the meanings provided in Chapter 36.

- (1) Administratively complete--A plan is considered administratively complete when it contains the information required by [§ 36.1071\(a\)](#) and [\(e\) of the Texas Water Code](#).
- (2) Amount of groundwater being used on an annual basis--An estimate of the quantity of groundwater annually withdrawn or flowing from wells in an aquifer for at least the most recent five years that information is available. It may include an estimate of exempt uses.
- (3) Adopted state water plan--A water plan developed pursuant to [Texas Water Code, § 16.051](#) and which has been adopted by the board.
- (4) Artificial recharge--Increased recharge accomplished by the modification of the land surface, streams, or lakes to increase seepage or infiltration rates or by the direct injection of water into the subsurface through wells.

- (5) Board--Texas Water Development Board.
- (6) Conflict--A situation where the managed available groundwater identified in a management plan or the adopted state water plan is not the managed available groundwater based on the desired future conditions set by the groundwater conservation districts in the groundwater management area.
- (7) Conjunctive use issues--Issues relating to the combined use of groundwater and surface water sources that optimize the beneficial characteristics of each source.
- (8) Desired future conditions--The desired, quantified condition of groundwater resources (such as water levels, water quality, spring flows, or volumes) for a specified aquifer within a management area at a specified time or times in the future, through at least the period that includes the current planning period for the development of regional water plans pursuant to [§ 16.053, Texas Water Code](#), or in perpetuity, as defined by participating groundwater conservation districts within a groundwater management area as part of the joint planning process. Desired future conditions have to be physically possible, individually and collectively, if different desired future conditions are stated for different geographic areas overlying an aquifer or subdivision of an aquifer.
- (9) Discharge--The amount of water that leaves an aquifer by natural or artificial means.
- (10) District--Any district or authority created under [Texas Constitution, Article III, § 52](#) or Article XVI, § 59 that has the authority to regulate the spacing of water wells, the production from water wells, or both.
- (11) Estimates--Calculations using best available data and methodologies specified in the management plan such that the quantifications will be reasonable for use by the district and can be tracked over time.
- (12) Executive administrator--The executive administrator of the board.

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(13) Managed available groundwater--The amount of water that may, to the extent possible, be permitted by a district for beneficial use in accordance with the desired future condition of the aquifer.

11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.2, 31 TX ADC § 356.2

(14) Management goals--The qualitative and quantitative ends toward which a district directs its efforts.

31 TX ADC § 356.2  
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(15) Management plan--The groundwater management plan required pursuant to [Texas Water Code, § 36.1071](#).

(16) Most efficient use of groundwater--Those practices, techniques and technologies that the district determines will provide the least consumption of groundwater for each type of use balanced with the benefits of using groundwater.

(17) Person with a legally defined interest in groundwater--A person who owns land or groundwater rights in the district, has a legal interest in a well in the district, has authorization from the district to produce groundwater, or otherwise has an interest in groundwater in the district as granted by court order or judgment.

(18) Projected water demand--The quantity of water needed on an annual basis for beneficial use during the period covered by the management plan. The demands shall be projected for the types of use that are included in the state water plan. Each type of use may be subdivided into sub-types by the district.

(19) Recharge--The amount of water that infiltrates to the water table of an aquifer.

(20) Surface water management entities--Political subdivisions as defined by Texas Water Code, Chapter 15, and identified from Texas Commission on Environmental Quality records which are granted authority to store, take, divert, or supply surface water either directly or by contract under Texas Water Code, Chapter 11, for use within the boundaries of a district.

**Source:** The provisions of this § 356.2 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective January 2, 2002, 26 TexReg

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§ 356.3. Required Management Plan

As required by [Texas Water Code, § 36.1071](#) and [§ 36.1072](#), a district shall submit to the executive administrator a management plan that meets the requirements of § 356.5 of this title (relating to Required Content of Management Plan). The management plan shall be submitted not later than three years after the creation of the district or, if the district requires confirmation, not later than three years after the election confirming the district. The district may review the plan annually, and must review and readopt the plan, with or without revisions, at least once every five years and resubmit the management plan for approval pursuant to § 356.5 of this title (relating to Required Content of Management Plan) and § 356.6 of this title (relating to Plan Submittal). When a district reviews their management plan, the district must review and readopt a plan that complies with any revisions to Chapter 36 of the Texas Water Code that affect the content of a management plan.

**Source:** The provisions of this § 356.3 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective January 2, 2002, 26 TexReg 11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.3, 31 TX ADC § 356.3

31 TX ADC § 356.3  
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§ 356.4. Sharing with Regional Water Planning Groups

Each district shall forward a copy of its approved management plan to the chair of each regional water planning group with territory within the district's boundaries.

**Source:** The provisions of this § 356.4 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective January 2, 2002, 26 TexReg 11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.4, 31 TX ADC § 356.4

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§ 356.5. Required Content of Management Plan

(a) A management plan shall contain, unless explained as either not applicable or not cost-effective, the following elements:

(1) management goals:

(A) providing the most efficient use of groundwater;

(B) controlling and preventing waste of groundwater, which may include the waste of groundwater through contamination induced by abandoned oil and gas wells, abandoned water wells, leaking pipelines, and other sources;

(C) controlling and preventing subsidence;

(D) addressing conjunctive surface water management issues;

(E) addressing natural resource issues which impact the use and availability of groundwater, and which are impacted by the use of groundwater;

(F) addressing drought conditions;

(G) addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective; and

(H) addressing, in a quantitative manner, the desired future conditions of the groundwater resources established pursuant to [§ 36.108, Texas Water Code](#), provided such desired future conditions have been identified at the time the management plan is submitted to the board for approval;

(2) management objectives that the district will use to achieve the management goals in paragraph (1) of this subsection. Management objectives are specific, quantifiable, and time-based statements of desired future accomplishments or outcomes, each linked to a management goal, which set the individual priority for district strategies. Each desired future accomplishment or outcome must be the result of actions that can be taken by district staff or assigns;

(3) performance standards for each management objective. Performance standards are indicators or measures used to evaluate the effectiveness and efficiency of district activities by quantifying the results of actions. Evaluation of the effectiveness of district activities measures the accomplishments of the district. Evaluation of the efficiency of district activities measures how well resources are used to produce an output, such as the amount of resources devoted per unit of accomplishment;

(4) actions, procedures, performance, and avoidance, all specified in as much detail as practicable, including the rules that are necessary to effectuate the management plan. An active and up-to-date website address for any proposed and existing rules may be substituted for the rules portion of this element;

(5) estimates of:

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(A) managed available groundwater in the district, based on the desired future condition selected pursuant to [§ 36.108, Texas Water Code](#), provided that the desired future conditions have been identified at the time the management plan is submitted to the board for approval;

(B) the amount of groundwater being used within the district on an annual basis;

(C) the annual amount of recharge from precipitation, if any, to the groundwater resources within the district;

(D) for each aquifer, the annual volume of water that naturally discharges from the aquifer to springs and any surface water bodies, including lakes, streams, and rivers;

(E) the annual volume of flow into and out of the district within each aquifer and between aquifers in the district, if a groundwater availability model is available;

(F) the projected surface water supply in the district according to the most recently adopted state water plan; and

(G) the projected total demand for water in the district, according to the most recently adopted state water plan;

(6) details of how the district will manage groundwater supplies in the district, including a methodology by which the district will track its progress on an annual basis in achieving its management goals; and

(7) consideration of water supply needs and water management strategies included in the adopted state water plan.

(b) The management goals, performance standards and management objectives required in subsection (a)(1), (2), and (3) of this section must be consistent with the established desired future conditions of the district's groundwater management area. Each district shall use the best available data and information, including its existing groundwater management plan,

to make the estimates required in subsection (a)(5) of this section and to develop the plan required by these rules. The district shall use the groundwater availability modeling information provided by the executive administrator in conjunction with any available site-specific information provided by the district to the executive administrator for review and comment before being used in the management plan when developing the estimates required in subsection (a)(5)(C), (D), and (E) of this section.

**Source:** The provisions of this § 356.5 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective January 2, 2002, 26 TexReg 11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.5, 31 TX ADC § 356.5

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§ 356.6. Plan Submittal

(a) A district requesting approval of its management plan shall submit to the executive administrator the following:

- (1) one hard copy and one electronic copy of the adopted management plan;
- (2) a certified copy of the district's resolution adopting the plan or an amendment to a plan or other evidence of the district's official action to adopt the plan;
- (3) an active and up-to-date website address at which the proposed and any existing rules may be viewed, although a hard copy of such rules may be substituted;
- (4) evidence of coordination with all surface water management entities in the district's boundaries; and
- (5) evidence that the plan was adopted after notice and hearing.

(b) The plan or revised plan under § 356.7 of this title (relating to Approval) shall be considered properly submitted to the board when all of the items specified in subsection (a) of this section are received in the

Austin offices of the board. Once a management plan or amendment is properly submitted to the board, the time lines of § 356.7 of this title begin.

**Source:** The provisions of this § 356.6 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective January 2, 2002, 26 TexReg 11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.6, 31 TX ADC § 356.6

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§ 356.7. Approval

(a) Within 60 days of receipt of a properly submitted management plan, readopted plan, or amendments as specified in § 356.6(b) of this title (relating to Plan Submittal), the executive administrator shall approve the plan as administratively complete if it complies with the requirements of §§ 356.5(a)(1) through 356.5(a)(5) and § 356.5(a)(7) of this title (relating to Required Content of Management Plan). The executive administrator may waive the requirement of § 356.5(a)(7) when justified. Upon approval, the executive administrator shall notify the district in writing of the determination.

(b) If approval is denied, the executive administrator shall include written reasons for the denial with the notice of denial. If the executive administrator denies approval, the district may submit a revised management plan for review and approval within 180 days from receipt of notice that the executive administrator has denied approval. The review and approval of a revised management plan must comply with all the requirements of this chapter pertaining to the review and approval of originally submitted management plans.

(c) An approved management plan remains in effect until:

- (1) the district fails to timely readopt a

management plan;

(2) the district fails to timely submit the district's readopted management plan to the executive administrator; or

(3) the executive administrator determines that the readopted management plan does not meet the required approval, and the district has exhausted all appeals to the board or appropriate court.

**Source:** The provisions of this § 356.7 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.7, 31 TX ADC § 356.7

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§ 356.8. Appeal of Denied Management Plan Approval

(a) If the executive administrator denies approval of a management plan, a revised management plan, or an amendment to the management plan, the district submitting the plan may appeal the denial to the board by notifying the executive administrator in writing of its intent to appeal, not later than 60 days after receipt of the executive administrator's written notice of denial. Not later than 30 days after filing its notice of intent to appeal, a district shall submit to the executive administrator in writing points of appeal addressing each of the executive administrator's reasons for denial of approval. The written points of appeal shall not exceed 50 pages (double spaced, single sided, 8.5 inches by 11 inches). The board shall hear the appeal at the first regularly scheduled meeting of the board to occur after the expiration of 30 days from the receipt of the district's written points of appeal. Written notice of appeal and written points of appeal shall be considered to be received by the executive administrator when received in the Austin offices of the board. The executive administrator may file a written response to the district's points of appeal and shall provide a copy of the response to the district.

(b) The district shall designate one or more representatives to present the appeal to the board. The district's representatives shall have not more than 20

minutes total to orally present the district's points of appeal to the board at the appropriate time during the meeting set to consider the appeal. After the district presents points the executive administrator or the executive administrator's designee may present an oral response not to exceed 20 minutes in length. The board may extend the presentation time limits. At the close of the executive administrator's response, the district's representative shall be allowed up to five minutes of rebuttal. At the close of rebuttal the board may discuss the matter and direct the executive administrator to either approve or withhold approval of the management plan.

(c) If the board decides not to direct the executive administrator to approve the management plan, the district may request that the matter be mediated. The district and the board may request the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, to obtain a qualified, impartial third party to mediate the matter. The cost of the mediation services must be specified in the agreement between the parties and the mediation services provider. If the board and the district do not resolve the matter through mediation, the board's decision not to direct the executive administrator to approve the management plan may be appealed to district court in Travis County.

**Source:** The provisions of this § 356.8 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective December 13, 2005, 30 TexReg 8293.

31 TAC § 356.8, 31 TX ADC § 356.8

31 TX ADC § 356.8  
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§ 356.9. Approval of Amendments

A district shall submit all amendments to the management plan developed under § 356.5 of this title (relating to the Required Content of Management Plan) to the executive administrator within 60 days of adoption of the amendment by the district's board. Amendments shall be submitted either in the form of an addendum to the management plan or as changes highlighted within the entire management plan. If the amendment is significant and not merely a minor correction of an error, the amendment should be in the form of an amended plan instead of an addendum to avoid confusion and preserve the integrity of the plan. Amendments must be submitted in accordance with § 356.6 of this title (relating to Plan Submittal). Incorporation of newly developed desired future conditions and managed available groundwater numbers may be adopted as an amendment.

**Source:** The provisions of this § 356.9 adopted to be effective December 11, 1997, 22 TexReg 12062; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.9, 31 TX ADC § 356.9

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§ 356.10. Possible Conflicts with State Water Plan

(a) A person with a legally defined interest in groundwater in a district or the regional water planning group may file a written petition with the executive administrator stating that a conflict requiring resolution may exist between the district's approved groundwater management plan developed under [Texas Water Code, § 36.1071](#), and the state water plan developed under [Texas Water Code, § 16.051](#). A copy of the petition shall be provided to the district and to the chairperson of any involved regional water planning group. The petition must state:

- (1) the specific nature of the conflict;
- (2) the specific sections and provisions of the approved management plan and the state water plan that are in conflict; and
- (3) the proposed resolution to the conflict.

(b) The executive administrator shall determine if a conflict exists. If a conflict does exist, the executive administrator will provide technical assistance to and facilitate coordination between the affected parties. Coordination may include any of the following processes:

- (1) requiring the affected parties to respond to

the petition in writing;

(2) meeting with representatives from the affected parties to informally mediate the conflict; and/or

(3) coordinating a formal mediation session between representatives of the affected parties.

(c) If the conflict has not been resolved within 45 days of the date the person or regional water planning group filed the petition with the executive administrator, the parties may request mediation. The parties may request the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, to obtain a qualified, impartial third party to mediate the matter. The cost of the mediation services must be specified in the agreement between the parties and the mediation services provider. If the parties cannot resolve the conflict through mediation, the board shall resolve the conflict by the 60th day after the date mediation is completed. To resolve the conflict, the executive administrator will recommend a resolution to the conflict to the board. Before presenting the issue to the board, the executive administrator will provide the affected parties 15 days notice. The board shall adopt a resolution to the conflict at a public meeting. Resolution may include requiring a revision to the groundwater conservation district's approved management plan or consolidating the resolution with an action being taken by the board pursuant to § 357.15 of this title (relating to Interaction with Groundwater Conservation District Management Plans).

(d) If the board requires a revision to the district's approved management plan, the board shall provide information to the district on the revisions that are required and why. The district shall prepare any revisions based on the information provided by the board and hold, after notice, at least one public hearing at a central location within the district. The district shall consider all public and board comments, prepare, revise, and adopt its plan, and submit the revised plan to the board for approval pursuant to this

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(e) At the request of either the district or the affected regional water planning group, the board shall include in the state water plan a discussion of the conflict and its resolution.

(f) If the district disagrees with the decision of the board, the district may appeal the decision to a district court in Travis County.

**Source:** The provisions of this § 356.10 adopted to be effective January 2, 2002, 26 TexReg 11008; amended to be effective December 13, 2005, 30 TexReg 8293; amended to be effective January 23, 2008, 33 TexReg 577.

31 TAC § 356.10, 31 TX ADC § 356.10

31 TX ADC § 356.10  
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