TEXAS STATE SOIL & WATER CONSERVATION BOARD

SELF EVALUATION REPORT

FOR THE

TEXAS SUNSET ADVISORY COMMISSION

SEPTEMBER 21, 2009

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Texas State Soil and Water Conservation Board
Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

Texas State Soil and Water Conservation Board Exhibit 1: Agency Contacts				
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II. Key Functions and Performance

Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of your agency's mission, objectives, and key functions.

The Texas State Soil and Water Conservation Board (TSSWCB) is the state agency that administers Texas' soil and water conservation law and coordinates voluntary natural resource conservation and nonpoint source (NPS) water pollution abatement programs throughout the state. Headquartered in Temple, Texas, the TSSWCB is charged with offering technical assistance to the state's 216 soil and water conservation districts (SWCDs). A seven-member State Board governs the TSSWCB, which is composed of two members appointed by the Governor and five members elected from across Texas by more than 1,000 local SWCD directors through state district conventions; SWCD directors are elected to their positions by agricultural producers and rural landowners within the geographic boundaries of each SWCD. The TSSWCB is the lead state agency for the planning, management, and abatement of agricultural and silvicultural (forestry-related) nonpoint source (NPS) pollution, conducts water supply enhancement through the Texas Brush Control Program, and administers grant programs to SWCDs for conducting operation, maintenance, and repair activities on flood control dams. The TSSWCB maintains regional program offices in strategic locations in the state to help carry out the agency's responsibilities.

Agency Mission

It is the mission of the Texas State Soil and Water Conservation Board, working in conjunction with local soil and water conservation districts, to encourage the wise and productive use of natural resources. It is our goal to ensure the availability of those resources for future generations so that all Texans' present and future needs can be met in a manner that promotes a clean, healthy environment and strong economic growth.

Agency Philosophy

The Texas State Soil and Water Conservation Board will act in accordance with the highest standards of ethics, accountability, efficiency, and openness. We affirm that the conservation of our natural resources is both a public and a private benefit, and we approach our activities with a deep sense of purpose and responsibility. We believe the existing unique organizational structure of soil and water conservation districts, whereby owners and operators of the state's farm and grazing lands organize and govern themselves through a program of voluntary participation, is the most realistic and cost effective means of achieving the state's goals for the conservation and wise use of its natural resources.

The TSSWCB was created in 1939 by the Texas Legislature to organize the state into SWCDs and to serve as a centralized agency for communicating with the Texas Legislature as well as other state and federal entities. Each SWCD is an independent political subdivision of state government. Local SWCDs are actively involved throughout the state in soil and water conservation activities such as operation and maintenance of flood control structures, developing voluntary conservation plans for landowners, sponsoring pesticide workshops, producer field days, land and range judging contests, scholarships, and securing money for the construction of outdoor classrooms.

SWCD Assistance

The TSSWCB provides assistance to SWCDs in financial and program matters, as well as the administration of grants. Also, the TSSWCB provides SWCDs with information and guidance on planning and implementing projects and regulatory issues related to NPS pollution. The TSSWCB employs field representatives that regularly meet with SWCDs and provide assistance in areas such as the Texas Open Meetings Act, the Texas Open Records Act, audits and financial reporting, wage and hour laws, and in coordinating programs carried out in neighboring SWCDs. In addition, the TSSWCB assists SWCDs in obtaining funding for a wide variety of special conservation initiatives. The TSSWCB administers a state-funded technical assistance program and provides additional assistance to SWCDs through program offices located in Center, Centerville, Gonzales, Hale Center, Harlingen, Mount Pleasant, Nacogdoches, San Angelo, Dublin, and Wharton.

Flood Control Dam Operation, Maintenance, and Repair Grants to SWCDs

The 81st Legislature appropriated funding to the TSSWCB to administer grant programs to SWCDs for conducting operation, maintenance, and repair activities on the State's approximately 2,000 flood control dams. Local SWCDs, county governments, municipalities, water control and improvement districts, and other special districts are all party to sponsorship agreements across the state whereby they have agreed to perform needed maintenance and repairs on federally designed and constructed flood control dams on private property. The TSSWCB is currently in the process of developing grant program rules, guidance, and processes to deliver these funds to those local governments through SWCDs.

Nonpoint Source Water Pollution Prevention and Abatement

The Texas Legislature and the Environmental Protection Agency (EPA) provide funding to the TSSWCB to administer the agricultural and silvicultural components to the Texas NPS Management Program. The federal funding originates from the Clean Water Act, Section 319(h) grant program, which is split evenly between the TSSWCB and the Texas Commission on Environmental Quality (TCEQ). The TCEQ uses its half of the funding to focus on urban and industrial NPS pollution, while the TSSWCB focuses on rural agricultural and silvicultural NPS pollution. The TSSWCB also receives general revenue from the Legislature to compliment and enhance the federally funded activities.

Local SWCDs and the TSSWCB employ the Certified Water Quality Management Plan (WQMP) Program as the primary implementation component of the Texas NPS Management Program. This voluntary conservation planning program is based on the United States Department of Agriculture-Natural Resources Conservation Service's (NRCS) Field Office Technical Guide (FOTG), which is recognized by state and federal water quality agencies as an effective alternative to water quality permitting on smaller animal feeding operations. It is the decision of the TSSWCB that the implementation of a WQMP based on the NRCS FOTG, including all practices required to minimally meet the resource quality criteria for water quality at the resource management system level, represents the best available technology for meeting Texas surface water quality standards. Through a longstanding conservation partnership between the NRCS, SWCDs, and the TSSWCB, NRCS Field Office personnel certify that each WQMP meets the FOTG definition of a Resource Management System. The TSSWCB also administers a cost-share program (Senate Bill 503, 1993-73rd Legislature) for program participants to encourage the implementation of WQMPs.

The 77th Legislature introduced a regulatory element into the WQMP Program as it relates to poultry operations. Senate Bill 1339 instituted mandatory participation in the program for all poultry operations in the state. While the legislation stated that all poultry facilities must participate in the program, it was

later determined that the intent of the requirement was focused on those facilities not already required to obtain permit coverage from the TCEQ. Certain poultry facilities use liquid waste handling systems that are regulated by the TCEQ under the Texas Pollutant Discharge Elimination System (TPDES), which requires permitting through delegated federal authority from the EPA. As a result, only dry-litter poultry facilities, or those that do not use liquid waste handling systems, were required to participate in the program. Aside from poultry operations, the WQMP Program remains a voluntary program administered for agricultural or silvicultural lands.

The TSSWCB also works with other state and federal agencies on NPS issues as they relate to Water Quality Standards, Total Maximum Daily Loads, Watershed Protection Plans, and the Coastal Management Program. Because the TSSWCB is the lead Texas agency for agricultural and silvicultural NPS pollution abatement, all other state agencies must coordinate their NPS abatement efforts with the TSSWCB, and the TSSWCB is charged with representing the state before the EPA in such matters.

Water Supply Enhancement Through the Texas Brush Control Program

Because water is a limited natural resource in Texas, the TSSWCB administers the Texas Brush Control Program through a program office located in San Angelo and works closely with various state and federal entities to efficiently implement the program. The Program involves the designation of priority areas within the state where the selective control of brush species will lead to an increase in ground and surface water availability. Cost-share funding is made available to eligible landowners as an incentive to participate.

Statutory Responsibilities to Committees, Councils, and Task Forces

The TSSWCB is a statutorily mandated member of the Texas Groundwater Protection Committee, the Coastal Coordination Council, the Task Force on Economic Growth and Endangered Species, the Drought Preparedness Council, Prescribed Burning Board, the Water Conservation Advisory Council, and the Texas Invasive Species Coordinating Committee which is administratively attached to the TSSWCB. The TSSWCB works to ensure SWCDs and local landowners are adequately represented in matters that could have a significant impact on future conservation and utilization of natural resources.

B. Do each of your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

SWCD Assistance

Due to the ever-increasing strain that population growth imposes on the state's natural resources and its ability to produce adequate and cost-effective food and fiber, there remains a vitally important role for SWCD technical and financial assistance programs. SWCDs serve as the state's primary delivery system through which technical and financial conservation planning assistance programs are channeled to agricultural producers and rural landowners. Many programs such as the TSSWCB's WQMP, Poultry WQMP, Brush Control, and Flood Control Programs are administratively coordinated through the efforts of local SWCDs. Additionally, SWCDs assist federal agencies in establishing resource conservation priorities for Federal Clean Water Act and Farm Bill programs based on locally-specific knowledge of natural resource concerns. Many times federal assistance funding must be passed through non-federal local sponsors in order to deliver the assistance to private individuals for disaster relief and other special reasons. Trends have shown that federal agencies that provide similar services and financial aid are

consistently reducing staff at the regional and local levels, making the need for SWCDs even more important. TSSWCB programs, all of which are required by state and federal statute, are administered through local SWCDs. Their involvement in those programs allows for a relatively small amount of administration to be used to deliver a proportionately large amount of conservation assistance to landowners. The assistance programs provided by the TSSWCB make up the majority of Texas SWCD's local operating budgets. While a portion of the operating funds that originate from state appropriations through the TSSWCB are required by statute to be matched with non-state funds, SWCD's lack of taxing authority results in the majority of their annual budgets being supported through the TSSWCB. Additionally, the removal of that state funding would result in even more reductions in funds that originate locally, as well as a reduction of federal assistance funding that originates from federal sources. Local SWCDs are so firmly integrated into the web of state and federal programs that their inability to serve as a delivery system would create a cascading deficiency of government conservation assistance programs due to the lack of any other viable alternative.

Flood Control Dam Operation, Maintenance, and Repair Grants to SWCDs

Nearly 2,000 floodwater retarding structures, or dams, have been built over the last 60 years within the State of Texas. The primary purpose of the structures is to protect lives and property by reducing the velocity and volume of floodwaters, and thereby releasing flows at a safer rate. These are earthen dams that exist on private property, and were designed and constructed by the NRCS. They were built with the understanding that the private property owner would provide the land, the federal government would provide the technical design expertise and the funding to construct them, and then units of local government (local sponsors) would be responsible for maintaining them into the future.

Local sponsors of the dams were required before a federal project was begun. Local sponsors signed a watershed agreement which outlined the duties and responsibilities of the federal and local sponsors. In general, local sponsors are required to obtain and enforce easements, conduct operation and maintenance (O&M) inspections, maintain the structures, and implement land treatment measures in the watershed. SWCDs are one of the local sponsors in all watershed projects. Other local sponsors include counties, cities, and Water Control and Improvement Districts (WCIDs).

Due to the passage of time and difficulty in raising adequate funds locally, many sponsors approached the Texas Legislature with their concerns over the amount of needed O&M and repairs. In recognition that these dams will continue to serve as a critical protection for our state's infrastructure, private property, and lives, the Legislature appropriated $15 million dollars to TSSWCB for grants to local SWCDs during the 2010-2011 biennium for O&M and structural repairs.

The TSSWCB is currently in the process of developing an (1) O&M Grant Program and a (2) Structural Repair Grant Program for the biennium. Rules for the O&M Grant Program were developed by the TSSWCB staff and a representative stakeholder group during the Summer of 2009, and were published in the Texas Register on July 31, 2009 for a 30-day comment period. The agency's goal is to have the rules for the Structural Repair Program published for public comment during Fall 2009.

While the responsibilities local SWCDs have regarding flood control dams have existed for decades, before now there has never been a consistent source of state or federal funding to allow for adequate maintenance and upkeep. For these reasons, there has never been a greater need for this program. The removal of this function would result in the continued degradation of the state's flood control infrastructure and the potential for severe flood events which could result in loss of life, as well as damage to property and state infrastructure such as highways, bridges, railroad crossings, and stormwater systems.

Nonpoint Source Water Pollution Prevention and Abatement

The TSSWCB's key programs and functions for NPS water pollution prevention and abatement continue to serve a clear and ongoing objective. According to the 2008 Water Quality Inventory and 303(d) List the vast majority of water quality impairments and concerns are due to a diverse array of nonpoint sources and, as such, restoration will take significant, long-term efforts from all sectors (agriculture, industry, municipal, etc.).

EPA's summation of the 2008 Inventory and List available at:

http://iaspub.epa.gov/waters10/w305b_report_control.get_report?p_state=TX#total_assessed_waters,

describes the probable sources and include such things as animal feeding operations, irrigated crop production, riparian and upland grazing. Because the vast majority of other NPS sources (urban and industrial) are regulated, there is an ever increasing scrutiny at the national level for the prevention and abatement of agricultural and silvicultural NPS pollution.

Because SWCDs serve as the state's primary delivery system through which technical and financial conservation planning assistance programs are channeled to agricultural producers and rural landowners, the TSSWCB is the logical entity to coordinate the agricultural and silvicultural components of the Texas NPS Management Program. The Texas NPS Management Program is the state's statutorily required and overarching program for all NPS pollution related activities, and it serves as the guide that directs all other activities. The distinct statutory separation of responsibilities established by the Legislature regarding NPS pollution between TSSWCB and TCEQ, which is based on a federal separation provided for in the CWA, ensures that the prevention and abatement of agricultural and silvicultural activities remains a voluntary, incentive-based program through the TSSWCB and SWCDs.

Protecting the State's rivers, streams, lakes, bays, and aquifers from the impacts of NPS pollution is a complex process. Texas uses a "watershed" approach to focus efforts on the highest priority water quality issues of both surface and ground water. The watershed approach is based on the following principles:

- Geographic focus based on hydrology rather than political boundaries;
- Water quality objectives based on scientific data;
- Coordinated priorities and integrated solutions; and,
- Diverse, well-integrated partnerships.

The TSSWCB applies the watershed approach to managing NPS pollution by channeling its efforts to restore and protect water quality through the development and implementation of Watershed Protection Plans (WPPs) and Total Maximum Daily Loads (TMDLs) in those watersheds where agricultural and/or silvicultural NPS pollution is contributing to a water quality impairment or concern to an extent which TSSWCB believes is sufficient to justify expenditure of agency resources through the Statewide NPS Grant Program. For a list of individual watersheds, including a list of on-going restoration activities within those watersheds, see http://www.tsswcb.state.tx.us/watersheds. The primary mechanism to implement these TMDLs and WPPs is the provision of technical and financial assistance through SWCDs for the development an implementation of WQMPs.

The purpose of WQMPs is to achieve a level of agricultural and silvicultural NPS water pollution prevention or abatement determined by the TSSWCB, in consultation with SWCDs, to be consistent with state water quality standards. As such, the WQMP Program is the State's only true *on-farm* NPS

abatement mechanism and without it there is no device that organizes the needed best management practices into something that technical experts agrees meets state water quality standards.

These programs and functions are critical to ensuring the continued restoration of water quality consistent with state and federal priorities. If the agricultural and silvicultural NPS components of the Texas NPS Management Program were no longer performed by the TSSWCB and locals SWCDs, the State would lack the ability to demonstrate the utility and success of voluntary, incentive-based conservation programs ultimately resulting in the potential for increased regulation of agriculture and silvicultural activities.

Water Supply Enhancement Through the Texas Brush Control Program

The ability to meet growing water needs will significantly impact the continued growth and economic wellbeing of the state. According to most scientific experts, control of brush presents a viable option for increasing the availability of water allowing the state to meet its present and future needs. The Texas Brush Control Program, while not representing the entirety of funding available for such activities, does establish the objectives, goals, and priorities of the State of Texas with respect to brush control. Without this program and the direction it provides, the State would not benefit from a coordinated brush management program.

Statutory Responsibilities to Committees, Councils, and Task Forces

The Texas Groundwater Protection Committee was created by House Bill 1459 during the 71st Regular Session as an interagency committee to coordinate state agency actions for the protection of groundwater quality in this state. This legislation required that the executive director of the TSSWCB, or a designee, serve as a permanent member of the Committee. In Texas, groundwater supplies about 41% of the municipal water systems and about 75% of all the water used in irrigation. Even though Texas is the second most populous state and is currently experiencing a high rate of population growth in the urban areas, it remains largely rural and agriculture-based. Nine major and twenty minor aquifers underlie approximately 76% of the State's surface acreage. While this provides an extensive groundwater resource, it also has an increased potential for contamination from NPS pollution. As the agency mandated with abatement of NPS pollution as it pertains to agricultural and silvicultural issues, TSSWCB uses its abatement and water enhancement programs to reduce the potential for groundwater contamination within the State, and cooperates with and complements the mandates of other state agencies within the context of the Committee.

The Prescribed Burning Board was created by House Bill 2599 during the 76th Regular Session in 1999, and meets as necessary to set or revise standards for prescribed burning, develop or revise comprehensive training curriculum for prescribed burn managers, set or revise standards concerning certification, recertification and training of burn managers, establish minimum education and professional requirements for instructors that teach the approved curriculum, and set or revise minimum insurance requirements for prescribed burn managers. SWCDs play an important role in providing technical assistance to agricultural landowners when prescribed burns are carried out. Communicating current standards for prescribed burning to local SWCDs is an important role that the TSSWCB fulfills.

The Texas Invasive Species Coordinating Committee was created by Senate Bill 691 during the 81st Regular Session and administratively attached to the TSSWCB. Its member agencies are set up to cooperate through an orderly exchange of information, jointly held meetings, and the appointment of sub-committees and working groups to facilitate development of effective and timely state responses to invasive species and to make recommendations to the leadership of state departments and agencies on research, technology transfer, and management actions related to invasive species. A myriad of plant and

animal species continue to plague water quality and water quantity within the State. Mesquite and juniper, for example, significantly deplete water resources while other plants such as salt cedar contribute to water quality impairments by raising salinity levels. Animals, such as feral hogs, cause significant property and monetary damage to agricultural lands every year. Their destructive nature and wide territory contribute to bacteria, nutrient and sediment impairments in water quality. As the agency responsible for abatement of agricultural NPS pollution issues, as well as the agency responsible for administering the Texas Brush Control Program, the TSSWCB is looking forward to facilitating the development of much needed state responses to invasive species through the Committee. The initial meeting of this new function is scheduled for the Fall of 2009.

The Coastal Coordination Council (CCC) was created by Senate Bill 1207 during the 65th Regular Session, and administers the state's Coastal Management Program (CMP). The Texas CMP was created to coordinate state, local, and federal programs for the management of Texas coastal resources. The program brings federal Coastal Zone Management Act (CZMA) funds to Texas to implement projects and program activities for a wide variety of purposes. The TSSWCB is a statutorily named member of the CCC. The Coastal Zone Act Reauthorization Amendments (CZARA), §6217, requires each State with an approved coastal zone management program (CMP) to develop a federally approvable program to control coastal NPS pollution. The National Oceanic and Atmospheric Administration (NOAA) and the EPA jointly administer the program at the federal level. In Texas, the TSSWCB and the TCEQ hold primary responsibility for the program's development and implementation.

In an effort to coordinate the preparedness and response to drought throughout Texas, the Texas Legislature created the Texas Drought Preparedness Council through the passage of House Bill 2660 during the 76th Regular session. The Council has developed a comprehensive state drought preparedness plan for mitigating the effects of drought in the state. As a statutorily named member of this Council, the TSSWCB works with landowners, farmers, and ranchers to develop resource management plans that include water conservation and drought mitigation practices. They also implement practices to increase irrigation efficiency through their water quality and conservation programs. By ensuring the use of the most efficient irrigation technology, and the control of water depleting brush through TSSWCB programs, the impacts of sustained drought can be mitigated. Additionally, they administer the Texas Brush Control Program, through local SWCDs, which includes a strategy for managing brush in critical areas and the designation of areas of critical need in the State where brush is contributing to a substantial water conservation problem.

The Water Conservation Advisory Council was created by House Bill 4 during the 80th Regular Session to serve as an expert resource to state government and the public on water conservation matters critical to the state. The main role of the council is to advise the Legislature and regional water planning groups on water conservation. According to the legislation, the Council is composed of 23 members appointed by the Texas Water Development Board (TWDB). The TSSWCB was designated as a member agency. The TSSWCB's participation on the Council enables the agency to prioritize it's water supply enhancement and conservation planning programs in areas of the state that are most in need of water conservation. The TSSWCB provides direction and guidance on the use of the most efficient irrigation technology and the management of water depleting brush through SWCDs.

Senate Bill 2534 during the 81st Regular Session created the Task Force on Economic Growth and Endangered Species and named the Executive Director of the TSSWCB as a member. The purpose of the Task Force is to establish a mechanism for state agencies to provide policy and technical assistance regarding compliance with endangered species laws and regulations to local and regional governmental entities and their communities engaged in economic development activities so that compliance with endangered species laws and regulations is as effective and cost efficient as possible. The TSSWCB will

contribute to the Task Force's objectives by improving coordination between local SWCDs and other partners on endangered species laws and local and regional economic development interests.

The TSSWCB believes all of the various committees, councils, and task forces the agency is currently working with as a member remain necessary. The TSSWCB believes its continued participation with those functions remains important and critical for interagency coordination and efficiency.

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

An examination of the "delivery system" that the TSSWCB and local SWCDs present for the state provides ample evidence that it is the most efficient and effective mechanism for conducting natural resource conservation and protection programs. Eighty (80) percent of all funding administered by the agency is exclusively "pass-through" to end-users such as agricultural producers or other rural landowners. The TSSWCB has maintained a *very low* 3% indirect administrative rate for the last three biennia, which is a continuing high priority of the State Board. The remaining 17% is made up of technical program support provided to local SWCDs and agricultural producers through a network of regional offices and field personnel. These efficiencies are made possible because the agency's main program responsibilities are administered through the assistance of SWCDs at the local level. Without their local presence and viability, the overall cost in administering agency programs would likely be significantly higher.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

The TSSWCB believes that Chapters 201 and 203 of the Agriculture Code correctly reflect the agency's current mission and objectives. Although numerous changes have been made over the years, those changes have been timely and needed in order for the TSSWCB to efficiently and effectively achieve its objectives. Many of the changes that have been made are not necessarily in the agency's enabling legislation; a list of other pertinent statute citations is provided in Section VIII, Statutory Authority and Recent Legislation.

One example of an issue the TSSWCB brought to the attention of the Legislature pertained to the liability of local SWCD directors when performing their statutory duties. Many SWCD directors began to express concern to the TSSWCB over their responsibilities regarding the operation and maintenance of flood control dams due to their inability to acquire adequate funding levels, and the subsequent liability they may assume in the event a dam failed. The TSSWCB brought this concern to the attention of the Legislature during the 80th Regular Session which resulted in the passage of Senate Bill 1639. This legislation clarified that directors of SWCDs were included in certain limitations on tort claims specified in the Civil Practice and Remedies Code. The Legislature also appropriated funding to the TSSWCB to provide for a liability insurance policy for SWCD directors.

Another example of an issue that was brought to the attention of the Legislature by the Water Conservation Advisory Committee created under Chapter 10, Water Code, pertained to a technical and financial assistance program to address agricultural water uses. The Committee recommended that the Legislature authorize the creation of a "water conservation plan program" at the TSSWCB to address

water *quantity* issues associated with agricultural production. The program was proposed to be patterned after the TSSWCB's existing Water *Quality* Management Plan Program. Thus far, the Legislature has not acted on the recommendation, however, the TSSWCB has developed a concept paper on how such a program could be implemented should it be necessary in the future.

Over the course of the last several years many changes have taken place regarding the regulation of poultry producing facilities at both the state and federal levels. In 2003, the EPA made changes to the federal regulations that specify which types of animal feeding operations are required to obtain permit coverage. In those changes, the EPA required that dry-litter poultry operations would need permit coverage; until that point dry-litter operations were not required to obtain a permit because by definition they *do not* intend to discharge to waters of the United States. Because this change occurred, and because the EPA has delegated the federal permitting program to the TCEQ, the state rules for permitting animal feeding operations were amended to require the same as the federal rules.

Shortly thereafter, the U.S. Second Circuit Court of Appeals vacated the portion of EPA's new regulations that required dry-litter poultry operations to obtain permit coverage because the Court decided that unless a facility intends to discharge to waters of the United States, the facility could not be required to obtain permit coverage. As a result of this ruling more changes were required at the state level. The Legislature had already required all poultry operations in the State to obtain and adhere to a WQMP certified by the TSSWCB under Section 201.026 of the Agriculture Code (Senate Bill 1339, 77th Regular Session) to address poultry mortality and other water and odor complaints. When the federal regulations reverted to their previous state, the TCEQ made complementary changes to the state rules removing the requirement for a permit if the facility was in compliance with the requirement for a WQMP.

This left one outstanding issue for the state regarding dry-litter poultry, which related to the nature of the Court's decision. Although the Court ruled EPA could not require a dry-litter poultry operation to obtain a permit, they left the decision on whether a dry-litter facility was considered a "point source" under the Clean Water Act to the discretion of the EPA. EPA chose to maintain dry-litter poultry operations' designation as point sources, therefore certain state and federal regulations were still required to be met in order for the facilities to legally operate. Through discussions between the TCEQ and TSSWCB, it was determined that a WQMP actually met all of the technical aspects of the state rules, but the TSSWCB's WQMP Program was officially still designated as a "nonpoint source" program. This meant that "point source" dry-litter poultry operations were not legally allowable in the program, and TCEQ could not utilize TSSWCB's efforts in order to achieve consistency with federal regulations. The TSSWCB, TCEQ, Texas poultry industry representatives, and other interested parties approached the Legislature during the 79th Regular Session with the issue, resulting in the passage of Senate Bill 1707. This legislation expanded the scope of the TSSWCB's WQMP Program to include "point sources" with respect to dry-litter poultry operations. This enabled the TSSWCB's WQMP Program to be used to satisfy the required technical requirements. For all other types of facilities, the program remains "nonpoint source."

E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

The TSSWCB knows of no other state agencies that carry out functions that duplicate its role as designated by the Legislature. While many state agencies have similar priorities and natural resource conservation concerns, the responsibilities and mechanisms for carrying out programs to address those priorities and concerns are separated, by design in most situations.

While the TCEQ is clearly the lead agency in the state for overall water quality management, their responsibilities associated with NPS water quality pollution are restricted to non-agricultural and non-silvicultural sources. The TSSWCB was designated by the Legislature as the lead agency pertaining to agricultural and silvicultural NPS pollution by Senate Bill 503 in 1993. The two agencies share several memorandums of agreement and understanding on how to efficiently carry out joint NPS work; the mutual collaboration and coordination have actually enhanced the overall effectiveness of both agencies efforts due to the partnerships that have been forged because of the joint responsibility. A key reason for the separation of agricultural and silvicultural NPS pollution responsibilities is not unique to Texas. The separation actually originates in the Federal Clean Water Act. Agricultural and silvicultural NPS pollution was explicitly excluded from the water quality permitting authority of the EPA, therefore many states chose to place that authority within non-regulatory state conservation agencies. This was intentionally done to prevent the regulatory approach of state departments of environmental quality from impacting the non-regulated aspects of water quality management. Additionally, in order to address agricultural and silvicultural NPS pollution, an agency needs the ability to *reach* farmers and ranchers. The delivery system available through the TSSWCB and local SWCDs creates a direct conduit to producers who own and operate the agricultural lands on which NPS pollution occurs. No other state agency possesses that type of *reach*.

The TWDB is another agency that has similar natural resource priorities, but has different responsibilities concerning those natural resources. The TWDB's mission is to provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas. While the TSSWCB shares the TWDB's objectives for water conservation, the TSSWCB's mission is specifically to provide the technical conservation planning and financial assistance to landowners, through local SWCDs, for actually implementing conservation practices to accomplish the regional plans and goals established by the TWDB. Again, the delivery system made available through the TSSWCB and SWCDs is what sets the agency apart in its ability to carry out *on-the-ground* conservation.

The Texas Department of Agriculture (TDA) is obviously another state agency that has similar goals and objectives. However, TDA is charged with addressing broad scale agricultural issues such as rural economic development, food and nutrition programs, marketing and promoting Texas agricultural products around the globe, regulating pesticide usage, and other regulatory programs that pertain to agriculture. Soil and water conservation is not regulated by federal or state law and it remains a voluntary activity. Because of this, most states have traditionally chosen to charge their state conservation agencies with the unregulated aspects of agricultural production. By placing agricultural and silvicultural NPS pollution management within the TSSWCB, the Legislature has made it possible for the conservation delivery system of the TSSWCB and SWCDs to reach as many farmers and ranchers and possible through voluntary conservation programs.

While the various academic agencies and institutes within the land grant university system (Texas A&M University System) such as Texas AgriLife Extension Service, Texas AgriLife Research, and the Texas Forest Service also share common agricultural goals and natural resource objectives, again, there is a distinct difference in the specific responsibilities of each entity with respect to those goals and objectives. AgriLife Extension and AgriLife Research focus on the education, demonstration, and research aspects of natural resource conservation, while TSSWCB and SWCDs focus on delivering the technologies and research advancements brought about by those entities *to-the-ground* through technical and financial assistance programs. Likewise, while the Texas Forest Service (TFS) may be responsible for the direction of forest interests within the state, the TSSWCB is designated as the responsible entity for addressing the NPS pollution aspects of silviculture through the Texas NPS Management Program.

The most obvious correlation between the functions of the TSSWCB and any other agency relates to the NRCS. The TSSWCB, SWCDs, and NRCS have several longstanding memorandums of agreement in place to administer a "conservation partnership." All three entities have the voluntary conservation of soil and water resources as part of their core mission. The presence of the partnership has enabled the State to maintain a small state conservation agency staff when compared to many other state agencies that do not have local and federal counterparts with common goals and objectives. In many respects the NRCS is the federal counterpart to the TSSWCB, just as EPA is the federal counterpart of the TCEQ. However, the NRCS does not delegate its key functions to state agencies in the same fashion as EPA. NRCS, although it has experienced significant reductions in staff, still maintains a sizeable presence in nearly all counties in Texas. The size of the work force the NRCS is able to maintain in each county is variable, which makes the presence of a viable SWCD in areas that have a small NRCS presence all the more important. NRCS provides significant amounts of financial assistance to farmers and ranchers through federal Farm Bill programs such as the Environmental Quality Incentives Program (EQIP), where local SWCDs help them establish local resource conservation priorities. A significant difference between TSSWCB and NRCS lies in each agency's responsibilities relating to water quality. While at the state level, many legislatures have separated the unregulated agricultural and silvicultural NPS responsibilities required under the Clean Water Act from their state environmental regulatory agencies, Congress has not created the same separation between NRCS and EPA. NRCS may be authorized to conduct programs that assist landowners with water quality protection, but they are not designated as the lead federal agency by Congress for agricultural and silvicultural water quality; that remains with the EPA. Were it not for the presence of the TSSWCB and its specific water quality authority in Texas, the conservation delivery system would not exist and soil and water conservation goals and objectives for Texas would be exclusively those of the federal government.

All of the agencies mentioned above, and others, share responsibilities related to natural resources in Texas. The distinctions in each agency's responsibilities related to natural resources allows for their individual strengths, powers, and structures to address all aspects of the issue in the most efficient and effective way possible. These agencies have built formal and informal agreements and partnerships to ensure duplication of efforts does not occur and that financial and personnel resources are maximized to the greatest extent. For example, the TSSWCB frequently provides grant funding to AgriLife Research and AgriLife Extension to conduct research, education, and demonstration activities. The TSSWCB also provides grant funding to the TFS to maintain a silvicultural NPS program in forested areas of the state. Joint meetings and work sessions are conducted periodically between the commissioners of the TCEQ and the State Board, while very frequent program meetings occur between the staffs of the two agencies to produce annual reports related to the Clean Water Act programs each agency administers. When additional financial assistance is available at other agencies, many times those agencies contract with the TSSWCB to utilize the agency's delivery system through SWCDs. In every situation, it is a goal of these agencies main a productive working relationship between both their policy making bodies and their respective staffs.

F. In general, how do other states carry out similar functions?

All fifty states, the District of Columbia, the Virgin Islands, Puerto Rico and the Pacific basin insular areas (American Samoa, Guam, Republic of Palau) have adopted laws that provide for the establishment of conservation districts (referred to in various states as soil conservation districts, soil and water conservation districts, natural resource conservation districts). Although many soil conservation laws have been amended and revised since their enactment during the late 1930's and early 1940's, most states originally modeled their law on "A Standard State Soil Conservation Districts Law"

provided by the President in 1937 to the Governor of each state. The Model Law was for guidance to each state to enact suitable laws that would enable the states to participate in the erosion control program being carried out by the Soil Conservation Service (now the NRCS) of the U.S. Department of Agriculture pursuant to the requirements of the Soil Conservation Act of 1935. Currently, there are more than 3,000 soil and water conservation districts in the United States.

The Model Act provided a procedure, including a local petition and referendum, for the organization of soil conservation districts as governmental subdivisions of the state, governed by a local board of directors, with power to establish and administer an erosion control program. It also provided for a state soil conservation agency to administer the procedures involved in establishing districts, assisting districts and coordinating their programs. In the years following the creation of soil conservation districts, numerous amendments have been made in the district laws of several states. Most of the amendments broadened the scope and authority of districts to meet new demands on soil and water resources and the problems of erosion arising out of rapid shifts in the use of land and the growing demands for residential, industrial and transportation needs.

Most states broaden the purpose of districts to authorize them to carry out works of improvement for flood prevention and for the conservation, development, utilization and diversion of water in order to permit districts to participate as local sponsoring agencies in watershed protection and flood prevention projects undertaken pursuant to the Watershed Protection and Flood Prevention Act of 1954 (P.L. 83-566).

In the late 1970's, many states gave increased authority to districts for erosion and sediment control in connection with the planning and implementation of state water quality programs under the Federal Water Pollution Control Act of 1977, as amended by the Clean Water Act. The Federal Agricultural Improvement and Reform Act of 1996 (1996 Farm Bill) significantly revised the direction and effort that the Federal government would extend toward the conservation of natural resources. After years of applying top-down program management approaches in Federal conservation programs, the 1996 Farm Bill established a locally driven process, facilitated by local soil and water conservation districts in each state, to guide the nations agricultural conservation act. The 1996 Farm Bill called on local SWCDs to take on significant new responsibilities by assessing local resource needs, setting priorities, developing policy and tailoring national conservation objectives to local programs.

G. What key obstacles impair your agency's ability to achieve its objectives?

An obstacle the TSSWCB must perpetually manage is the difficulty in administering cost-sharing programs for conservation practices that are both bound by the constraints of weather and seasonal variations as well as the constraints of a biennial budget cycle. Many conservation practices can only be successfully implemented when precipitation is favorable for the establishment of vegetation, or when the weather conditions are suitable for the use of chemical herbicides. Often, funding that is contractually obligated for a specific purpose is delayed due to unfavorable conditions, increasing the possibility that the funding will be lapsed back into the state treasury before the work can be accomplished. Having the ability to expand the period time within which contracted obligations could be liquidated would likely decrease the amount of funding removed from those programs due to lapses, and increase the amount of conservation installed on Texas lands.

Other obstacles the TSSWCB must routinely adapt its programs around pertain to changes in the federal regulations relating to the Clean Water Act. Slight changes to laws at the federal level often cause an enormous amount of work at the state level. For example, when the EPA reclassified certain dry-litter

poultry operations as "point sources" under the federal permitting program, extensive changes needed to be made to the rules and program guidance of both the TSSWCB and the TCEQ. Another example are the ever-evolving requirements for using Clean Water Act, Section 319(h) Nonpoint Source Grant funds. In past years, greater flexibility was placed in the hands of the state, whereas currently the EPA is more directly dictating to the state where federal funding can be spent and on which types of projects. These changes, which are frustrating at the least, can cause great difficulty for state agencies in their attempts to carry out water quality improvements that require a number of years to achieve.

To a large extent the state of the economy, persistent drought, and changing federal priorities will always remain impediments that TSSWCB will have to manage. However, the ability to carry contractually obligated funds into future biennia would alleviate aspects of the challenges that they present.

H. Discuss any changes that could impact your agency's key functions in the future (e.g., changes in federal law or outstanding court cases).

Proposed Congressional legislation, as well as at least two pending court cases, may have significant impacts on the TSSWCB and its programs in the near future.

On April 2, 2009, U.S. Senator Russell Feingold and 24 other Senate sponsors introduced S.787, better known as the Clean Water Restoration Act (CWRA). This pending legislation would amend the Federal Water Pollution Control Act (commonly known as the Clean Water Act (CWA)) to replace the term "navigable waters" with the term "waters of the United States." Many believe this change would result in an unprecedented expansion of the CWA because the CWA already regulates truly navigable waters and streams with both permanent and seasonal flows. The enactment of the CWRA would lead to a much more broad interpretation of the CWA. Proponents have asserted that the CWRA "restores" the original intent of the CWA and "clarifies" CWA jurisdiction. However, others believe it would grant the EPA and the Army Corps of Engineers (Corps) jurisdiction over all "intrastate waters" – essentially all wet areas within a state, including groundwater, ditches, pipes, streets, municipal storm drains, gutters, desert features and farmland. It is believed the CWRA would also grant EPA and the Corps authority over all "activities affecting these waters" (private or public), regardless of whether the activity is occurring in water or whether the activity actually adds a pollutant to the water. Many consider this a change from the original intent of Congress in enacting the CWA by replacing its link to the commerce clause with the full "legislative power of Congress under the Constitution." The impact of this legislation could result in the need for expansive modifications of state law, state-federal agreements, and reclassifications of state agency jurisdictions and programs. As the lead agency in Texas for the management, abatement, and prevention of agricultural and silvicultural nonpoint source pollution, the TSSWCB would likely need expanded jurisdiction and additional authority to carry out its conservation programs in a manner consistent with federal law if this law is enacted.

On January 6, 2009, a prominent environmental advocacy group filed suit against the National Oceanic and Atmospheric Administration (NOAA) and the EPA for, among other things: (1) not having the authority to conditionally approve Oregon's Coastal NPS Pollution Control Program; and (2) failing to penalize Oregon for not developing an approved program by withholding Coastal Zone Management Act (CZMA) Section 306 and CWA-Section 319(h) funding. The Coastal Zone Act Reauthorization Amendments (CZARA), §6217, requires each State with an approved coastal zone management program (CMP) to develop a federally approvable program to control coastal NPS pollution. In Texas, the TSSWCB and the TCEQ hold primary responsibility for the program's development and implementation. This case is relevant to the TSSWCB because Texas is also operating its Coastal NPS Pollution Control Program under "conditional" approval from NOAA and EPA. TSSWCB would stand to loose a

percentage of its annual CWA-Section 319(h) funding if the ruling in the case is such that NOAA and EPA cannot legally issue conditional approval.

On August 14, 2009, a federal judge in Tulsa ruled that poultry litter can be considered a solid waste under federal environmental laws. The ruling was considered a victory for the State of Oklahoma in the state's pollution lawsuit against 12 Arkansas poultry companies, which Oklahoma has asserted are contributing to water quality impairments from across the boarder between the two states. A trial is expected to begin on September 21, 2009 in federal district court. Attorneys for the companies had argued that the litter should not be labeled a solid waste because it has a beneficial use as a fertilizer and has market value. However, the presiding judge stated that the issue was still a "very gray" area, and ruled that the litter can be considered a solid waste to the extent that it is over-applied on some farm fields. The outcome of this case could present significant challenges to all states with substantial amount of poultry production, including Texas. Currently allowable nutrient management, litter storage, and application practices included in the TSSWCB's WQMP Program, as well as the TCEQ's rules for animal feeding operations, could all need extensive modification.

I. What are your agency's biggest opportunities for improvement in the future?

If the recommendation made by the Water Conservation Advisory Council pertaining to a Water Conservation Plan Program were to become a priority for the Texas Legislature, the TSSWCB could significantly address the efficiency of irrigation techniques and water conservation practices across the state on private lands. The TSSWCB and SWCDs currently administer the WQMP Program, which is similar in structure, but obviously has a different objective. If the Texas Legislature chose to create such a program, the TSSWCB stands ready to develop the program and utilize its conservation delivery system to promote and install management practices in all areas of the state.

One improvement that the TSSWCB is anticipating pertains to the agency's ability to utilize geographic and spatial data to improve its ability to establish conservation priorities, identify areas of the state that demonstrate the need for improvements, and quantify the impacts of conservation work on water quality. In response to a request from the EPA, the TSSWCB included a request during the 81st Regular Session for an additional full-time equivalent for its Statewide Resource Management department. This additional employee, which was granted by the Legislature, is intended to serve as the agency's data management and geographic information systems coordinator. The position is funded through federal CWA, Section 319(h) grant funds already administered by the TSSWCB.

Another area that the TSSWCB feels is already evolving into a measurably improved function relates to water quality improvement through watershed-wide planning prior to implementing conservation practices. While the TSSWCB, and other agencies, have always attempted to apply program resources in a coordinated manner, recent advances in the understanding of watershed dynamics, potential pollutant sources, fate and transport of pollutants, ultimate impacts of those pollutants, and strategies in monitoring for successes have led to the establishment of a Watershed Protection Plan Program. This program is based on the administrative, technical, and cultural requirements identified by the EPA as critical to achieving success in water quality restoration activities. Taking this approach, through extensive stakeholder participation, is laying the foundation for true water quality success stories in numerous watersheds across the state.

The TSSWCB is also anticipating an increase in the state's ability to control invasive species through the work of the new Invasive Species Coordinating Committee (Senate Bill 691/81st Regular Session). As the Committee begins its work, the TSSWCB and other agencies feel that improvements in the state's

efforts to mitigate the effects of invasive species will occur due to a greater emphasis being placed on them, the potential for increased federal funding, and increased coordination between state agencies.

A final area that the TSSWCB believes is rapidly improving is the ability of the agency to identify, verify, and address the vast number of Texas waters that are considered impaired due to excessive bacteria and other pathogens. For several years, the water quality assessment functions of the TCEQ have followed established standards and practices which have resulted in a tremendous number of designated impairments, resulting in the need for extensive, and expensive, water quality functions required under the CWA. Difficulty in characterizing the nature of bacteria, as well as a seemingly disproportionate number of actual illnesses compared to the number of documented impairments, have led to an increased focus on the issue. Recent efforts by the TCEQ to evaluate the appropriateness of designated uses and their associated numeric water quality standards will likely increase the ability of all water quality agencies to place limited technical and financial resources in the most important situations. Improved assessment techniques, faster and less expensive modeling applications, as well as an extensive statewide initiative to increase understanding of bacteria fate and transport, all funded by the TSSWCB, should enable the agency to better target its natural resource conservation programs in the very near future.

J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures. See Example 2 or click here to link directly to the example.

Texas State Soil and Water Conservation Board
Exhibit 2: Key Performance Measures — Fiscal Year 2008

Key Performance Measures	FY 2008 Target	FY 2008 Actual Performance	FY 2008 % of Annual Target
Percent of District Financial Needs Met by Soil and Water Conservation Board Grants	63.20%	79.00%	125.00%
Number of Contacts with Districts to Provide Conservation Education Assistance	14,000	15,396	109.97%
Percent of Agricultural and Silvicultural Operations with a potential to Cause Nonpoint Pollution in Problem Areas As Identified and Designated by the TSSWCB	50.00%	63.50%	127.00%
Number of Proposals for Federal Grant Funding Evaluated by TSSWCB Staff	20	18	90.00%
Number of Pollution Abatement Plans Certified	620	827	133.39%
Number of Acres of Brush Treated	18,776	20,944	111.55%

III. History and Major Events

Provide a timeline of your agency's history and key events, including:

- **the date your agency was established;**
- **the original purpose and responsibilities of your agency;**
- **major changes in responsibilities or statutory authority;**
- **changes to your policymaking body's name or composition;**
- **significant changes in state/federal legislation, mandates, or funding;**
- **significant state/federal litigation that specifically affects your agency's operations; and**
- **key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).**

See **History and Major Events Examples** or **click here to link directly to an example**.

In the early history of the United States, those involved in agriculture often did not consider the conservation of soil and water resources as an important matter. Land was cleared and put into farm production. When the land ceased producing at a profitable level, the farmers merely moved on to new land farther west and started the process over again. There was no need to be concerned with soil conservation, as there was a seemingly unlimited supply of virgin land waiting to be tilled. This process continued through the 1800s and into the early 1900s. With the outbreak of World War I, farmers in the Great Plains states were encouraged to break out native grassland to grow wheat and other foodstuffs to feed the nation and the world. As a result of these and other *unwise* management practices and the fact that the farmlands were experiencing long periods of drought, the 1930s produced some of the worst dust storms the nation had ever seen. Clouds of dust rolled across the plains states sending dust storms through the south and into the nation's capital. At the same time, the nation was in the midst of a great economic depression. The federal government, seeking ways to put people back to work and encourage conservation, created the Civilian Conservation Corps and Soil Erosion Service. Through these mechanisms, demonstration projects were initiated to train technicians and to educate the public in ways to conserve soil resources. These programs were successful in putting people back to work, but lacked the local ties to establish lasting conservation programs.

One of the early day leaders in the national effort to control soil erosion was Hugh Hammond Bennett from North Carolina. After graduation from the University of North Carolina in 1903, Hugh Bennett took a job with the Bureau of Soils in the United States Department of Agriculture. Because of his experience, scientific knowledge and leadership ability, he was put in charge of the Soil Erosion Service when it was created in 1933. In 1935, P.L. (Public Law) 46 was passed creating the Soil Conservation Service within the U.S. Department of Agriculture and Hugh Bennett became the first Chief of the agency. He soon became internationally known for his accomplishments in conservation work.

With the help of Congressman Buchannan from Columbus, Texas, Hugh Bennett was able to persuade President Franklin Roosevelt that the soil resources of this nation were being wasted. He convinced the President that a Model Soil Conservation Act should be developed and sent to the governors of each state for passage by their state legislatures. The purpose of this Model Act would be to develop programs at the state and local level to control soil erosion.

In 1936, such a Model Act was sent to the governors with the endorsement of President Roosevelt. The Model Act, developed in Washington, was patterned after the Texas Wind Erosion Act, the Grass Conservation Acts in the Northern High Plains and certain water conservation district law.

In 1937 legislation was introduced in the Texas Legislature based on this Model Act. It is reported that as many as 25 different versions of this soil conservation law were considered before a final version was passed. There was much heated discussion of the proposed legislation. When the final version was adopted, the bill contained many undesirable features. The law would have set up Soil Conservation Districts automatically on a county basis and made County Commissioners Courts the governing body. A portion of the county tax was to be used to finance the program and county agricultural agents were to be the administrative officers.

A number of agricultural leaders from across the state had, by this time, become concerned about the newly passed legislation. It was their opinion that, if the responsibility for installing and maintaining conservation measures lay in the hands of the land owners, the control of such a program should also be in their hands. As a result of these and other concerns, a group of landowners led by V.C. Marshall of Heidenheimer, Texas, convinced the Governor to veto the 1937 legislation.

Hard feelings among agricultural leaders resulted from the attempt to pass this soil conservation law. Under the leadership of Mr. Marshall, a concerted effort was made during the interim between legislative sessions to heal the old wounds and to put together a version of a law that would be generally accepted by the farmers and ranchers of Texas. Mr. Marshall organized a committee of leaders from across the state to promote the passage of a new Soil Conservation Law. He traveled many miles at his own expense seeking the views of agricultural leaders and promoting the idea of the Soil Conservation District Program.

The key points Mr. Marshall felt should be included in the new law were that (1) farmers and ranchers should determine whether or not a Soil Conservation District was needed and hold a local option election prior to the establishment of the district; (2) the program should be controlled by landowners; and (3) the Soil Conservation Districts should have no taxing authority or the power of eminent domain.

In 1939 the Texas Legislature passed House Bill 20 which incorporated those features and was the first Soil Conservation Law for the state. The law created the State Soil Conservation Board and allowed for the creation of the Soil Conservation Districts. Mr. Marshall was elected as the first Chairman of the Soil Conservation Board and later resigned to become the first Executive Director of the agency.

On April 30, 1940, the Secretary of the State issued Certificates of Organization for the first 16 Soil Conservation Districts paving the way for the program we now operate. Today, Texas has 216 local soil and water conservation districts that encompass more than 99% of the state.

As previously mentioned, the Model Act endorsed by President Roosevelt was in part patterned after the Texas Wind Erosion Act. Texas was already making attempts to address soil conservation as a result of the “Dust Bowl” days of the 1930s. The 44th Legislature in 1935 passed legislation authorizing the establishment of Wind Erosion Conservation Districts. This law provided for the creation of districts to “conserve the soil by prevention of unnecessary erosion caused by winds, and the reclamation of lands that have been depreciated or denuded of soil by reasons of winds.” Although a number of Wind Erosion Control Districts were created, the passage of the Soil Conservation District Law in 1939 resulted in those districts becoming dormant.

In 1975, Governor Dolph Briscoe, by Executive Order, designated the TSSWCB as lead agency to assume the planning and management responsibility for control of agricultural and silvicultural nonpoint source pollution as required by the Federal Water Pollution Control Act.

In 1981 the 67th Legislature passed House Bill 1436, which for the first time codified the agricultural laws of Texas. Title 7, Chapter 201 of this code contains the portion pertaining to Soil and Water Conservation.

In 1985 the 69th Legislature passed Senate Bill 1083 creating a Brush Control Program in Texas and granting new powers and responsibilities, without funding, to the Texas State Soil and Water Conservation Board (TSSWCB) and Soil and Water Conservation Districts (SWCD) under Chapter 203 of the Agriculture Code. In 1999, the TSSWCB received its first appropriation in the FY00-01 biennium to control water-depleting brush and trees, such as cedar and mesquite. The program received $9.1 million to establish a pilot project in the North Concho Watershed.

In 1993, the 73rd Legislature passed Senate Bill 503 which named the TSSWCB the lead agency to address water quality issues relating to runoff from diffused, or nonpoint sources resulting from agricultural and forestry operations. In 1999, the Legislature expanded the TSSWCB's environmental mission and appropriated money to address water pollution from nonpoint sources under a separate, federally mandated program.

In 1997, the 75th Legislature passed Senate Bill 1910, which required all poultry farms to have a Texas Commission on Environmental Quality (TCEQ)-approved method of dead bird disposal. The law took effect in March 1998. However, the rules were not adopted and did not take effect until fall 1999. It was during this time that requests for poultry-WQMPs significantly increased due to pursuit of cost-share for mandated mortality management. This activity intensified the TSSWCB's poultry initiative. The TSSWCB received $426,000 for the development of Total Maximum Daily Loads (TMDL) implementation and 3 FTEs for this initiative.

In 2001, the 77th Legislature passed Senate Bill 1339, which requires all poultry facilities in Texas to operate in accordance with a WQMP certified by the TSSWCB. The review and certification process assures the plan includes appropriate practices, management measures, and schedules of implementation.

In 2003, the 78th Legislature passed Senate Bill 1828, which changed the make-up of the TSSWCB governing board by adding two Governor appointees to join the five elected board members to create a seven-member board. The legislation also required the agency to prepare and deliver a semiannual report relating to the status of the budget areas of responsibility assigned to the board, including outreach programs, grants made and received; federal funding applied for and received special projects, and oversight of water conservation district activities. The semiannual reports were to be prepared January 1st and July 1st each year and sent to the Governor; the Lieutenant Governor, and the Speaker of the House of Representatives. In addition, the legislation required the State Auditor, in coordination with the Legislative Budget Board, to conduct a management audit of the TSSWCB by March 1, 2004.

Senate Bill 1828 also required the TSSWCB to consult with local districts in the adoption and administration of the brush control program under §203 Agriculture Code and to consult with the Texas Water Development Board (TWDB) in regard to the effect of brush control on water quantity and the Texas Department of Agriculture (TDA) on the effect of brush control on agriculture. Brush control cost-share was reduced from a maximum of 80% to 70% (not to exceed a total of 80% when combined with a federal program) and made political subdivisions eligible for cost sharing not to exceed 50% of the total cost. Public lands were made eligible for 100% total cost share.

For the 2008-2009 biennium, the TSSWCB was provided $1,200,494 in new finds and additional 2 FTEs to compliment the agency's existing federally funded Nonpoint Source Grant Program.

This past session, the 81st Legislature provided: $15,000,000 and three FTEs for operation, maintenance, and repair of flood control structures; an additional $677,200 for Conservation Implementation Assistance (Technical Assistance) grants for targeted assistance in toward SWCDs engaged in total maximum daily loads and watershed protection plans, as well as a 5% across-the-board cost of living increase for all SWCDs; $4,745,218 and one FTE for new and existing water supply enhancement projects; one federally-funded FTE to perform database development and maintenance, geospatial data management, and geographic information systems; and $219,109 for district director mileage reimbursement.

The 81st Legislature, in House Bill 4586, provided $54,664 supplemental appropriations for district director mileage reimbursements in 2009.

House Bill 865, 81st Legislature, established the Texas Invasive Species Coordinating Committee. The committee is composed of the TDA; Texas Parks and Wildlife Department(TPWD); Texas AgriLife Extension Service; Texas Forest Service (TFS); TWDB and the TSSWCB.
The committee is administratively attached to the TSSWCB and the agency was provided one FTE to coordinate the activities of the committee.

Senate Bill 2534, 81st Legislature, established the Task Force on Economic Growth and Endangered Species. The task force is composed of; the Comptroller; the Commissioner of Agriculture; the Executive Director of the TPWD; the Executive Director of the Texas Department of Transportation(TXDOT); and the Executive Director of the TSSWCB (or their designees).

The leaders who framed the Texas Soil and Water Conservation Law in 1939 recognized that landowners and operators of private land constitute the basic resource for the conservation of our renewable natural resources. Without the support and willing participation of private landowners and operators in the development and implementation of soil and water conservation programs there is little hope of success. Local soil and water conservation districts led by farmers and ranchers who know the land and the local conditions and problems have the means to develop conservation plans that address each acre of land specific to its needs to solve or reduce the severity of its problems.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas State Soil and Water Conservation Board Exhibit 3: Policymaking Body			
Member Name	**Term/ Appointment Dates/ Appointed by ___** (e.g., Governor, Lt. Governor, Speaker)	**Qualification**	**City**
Aubrey L. Russell	Elected for a term of May 5, 2009 to May 3, 2011	Pursuant to §201.003, Agriculture Code, elected members must hold title to farmland or ranchland within a conservation district, be 18 years of age or older; and be a resident of a county all or part of which is included in the conservation district. Pursuant to §201.013, Agriculture Code, elected members must be actively engaged in farming or ranching and must be a delegate to the state district convention for State Board member elections	Panhandle
Marty H. Graham	Elected for a term of May 6, 2008 to May 4, 2010	Same as above	Rocksprings
José O. Dodier, Jr.	Elected for a term of May 5, 2009 to May 3, 2011	Same as above	Zapata
Jerry D. Nichols	Elected for a term of May 6, 2008 to May 4, 2010	Same as above	Nacogdoches
Barry Mahler	Elected for a term of May 5, 2009 to May 3, 2011	Same as above	Iowa Park
Larry D. Jacobs	Governor appointed pursuant to §201.011, Agriculture Code for a term of February 1, 2008 to February 1, 2010	Pursuant to §201.011, Agriculture Code, appointed members must be actively engaged in the business of farming, animal husbandry, or other business related to agriculture and wholly or partly own or lease land used in connection with that business and not a member of the board of directors of a conservation district	Montgomery
Joe Ward	Governor appointed pursuant to §201.011, Agriculture Code for a term of February 1, 2009 to February 1, 2011	Same as above	Telephone

B. Describe the primary role and responsibilities of your policymaking body.

The policymaking body (State Board) establishes and approves general policy for the agency. They adopt the necessary rules, guidelines or directives to carry out its powers and duties under the provisions of the Agriculture Code and other applicable laws of the State. The State Board examines and approves budget recommendations for the Texas State Soil and Water Conservation Board (TSSWCB) that are transmitted to the Legislature. The Board appoints an Executive Director to serve at the will of the Board.

The Board offers appropriate assistance to the directors of Soil and Water Conservation Districts (SWCDs) in carrying out programs, coordinates the programs of the SWCDs and secures the cooperation and assistance of the federal government, federal agencies, and state agencies. The Board encourages the formation of conservation districts in each area of the state where the organization of a district is desired by local farmers and ranchers.

C. How is the chair selected?

In accordance with §201.019(a), Agriculture Code, the State Board elects its own Chair. This is normally done on an annual basis.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

The majority of the members of State Board are elected by local SWCDs in a convention style election (5 Board members elected; 2 Board members are appointed by the Governor). The TSSWCB and SWCDs are dependent upon legislative appropriations. The program does not generate fees.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2008? In FY 2009?

The State Board routinely meets on the third Thursday of each odd numbered month, which is established prior to adjournment at the previous State Board meeting. Periodically the State Board meets more frequently when a specific program or issue requires more immediate action. The State Board met six times in FY2008 and six times in FY2009.

F. What type of training do members of your agency's policymaking body receive?

Pursuant to §201.0142, Agriculture Code, a member of the State Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the State Board until they have completed a training that provides them with information regarding:

- the legislation that created the state board
- the programs operated by the state board
- the role and functions of the state board

- the rules of the state board, with an emphasis on the rules that relate to disciplinary and investigatory authority
- the current budget for the state board
- the results of the most recent formal audit of the state board
- the requirements of;
    - the open meetings law, Chapter 551, Government Code
    - the public information law, Chapter 552, Government Code
    - the administrative procedures law, Chapter 2001, Government Code
    - other laws relating to public officials, including conflict-of-interest laws
- any applicable ethics policies adopted by the state board or the Texas Ethics Commission

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

As required by §201.019(i), Agriculture Code, the State Board has adopted a policy to separate the responsibilities of the Board and the staff of the Board.

The policy is: "The Board shall establish and approve general policy for the agency. The Board shall make any necessary rules, guidelines or directives to carry out its powers and duties under the provisions of the Agriculture Code and other laws of the State. The board shall examine and approve budget recommendations for the Board that are to be transmitted to the Legislature. The Board shall appoint an Executive Director to serve at the will of the Board. The Executive Director shall manage the administrative affairs of the Board including the execution of rules, guidelines, decisions, and directives of the Board. All other employees of the Board shall be responsible to the Executive Director".

The policy was adopted by the Board in a meeting on July 18, 1985.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

- Internal audit reports are presented to the State Board in accordance with the schedule the Board has developed with the independent Internal Auditor.
- The agency prepares and distributes a monthly update to inform the State Board, staff, and SWCDs on program activity and planned activities.
- At each State Board meeting, all program areas and activities are presented as an update.
- Any potential or actual concern/problem is conveyed to the State Board members between meetings to keep them advised.
- State Board members have and maintain independent contact with SWCDs and receive feed back on agency programs and activities.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

- SWCD Directors have daily contact with landowners and agricultural operators across the state involved in conservation practices and programs.
- State Board members are open to contact by SWCD Directors and have regular contact with

SWCD Directors at various functions and other agricultural meetings. State Board field staff has regular contact with SWCD Directors and act as liaisons between SWCD Directors and the State Board.

- The State Board designates a comment period as a set agenda item for guests. The agenda is published prior to meetings as required by the Open Records Act and is available on our web site.
- Proposed new or proposed revised rules for agency or program operations are published for public comment in the Texas Register and posted on the agency web site. Comments received are brought to the attention of the State Board for their discussion and direction. In addition, SWCDs are notified about any proposed new or revised rules being considered.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. See Exhibit 4 Example or click here to link directly to the example.

NA

V. Funding

A. Provide a brief description of your agency's funding.

The Texas State Soil and Water Conservation Board's (TSSWCB) funding is financed primarily through general revenue and federal funds with occasional interagency contracts. The agency's appropriation bill pattern for 2008-09 included all funds of $32,471,992 with a fulltime-equivalent (FTE) limitation of 67.5. The appropriation bill pattern for 2010-11 includes all funds of $57,206,170 with an FTE limitation of 72.5 and 1.0 rider FTE. The method of finance for 2010-11 is 78% general revenue and 22% federal funds.

B. List all riders that significantly impact your agency's budget.

2010-11 GAA, Article IV – 49,50

Matching Requirements. Funds appropriated above for conservation assistance grants for soil and water conservation districts may be expended only when matched by equal amounts from sources other than state funds or earnings from state funds, not to exceed $7,500 in any district per fiscal year.

Allocation of Grant Funds. Out of the amounts appropriated above to the TSSWCB, any Conservation Implementation Technical Assistance grant funds to the soil and water conservation districts shall be used for expenses occurring in the fiscal year in which the grant funds are allocated. Grant distributions are made contingent upon districts filing annual Conservation Implementation Technical Assistance expenditure summary reports with the TSSWCB and are subject to a year-end reconciliation.

Water Quality Management Plans. Included in amounts appropriated above in Strategy B.1.2, Pollution Abatement Plan, is $550,000 out of the General Revenue Fund in fiscal years 2010 and 2011 for administrative costs associated with the preparation of water quality management plans for poultry operators and $3,801,098 out of the General Revenue fund in fiscal years 2010 and 2011 for the planning and implementation of water quality management plans. Any unexpended balances from this appropriation as of August 31, 2010 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2010.

Brush Control. Included in amounts appropriated above in Strategy C.1.1, Water Conservation and Enhancement, is $4,543,641 in fiscal year 2010 and $4,543,641 in fiscal year 2011 out of the General Revenue Fund for the brush control program. These funds shall be used for supporting existing and implementing new brush control projects designated by the TSSWCB. Any unexpended balances from this appropriation as of August 31, 2010 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2010.

Conservation Assistance to the Soil and Water Conservation Districts. Out of the amounts appropriated above to the TSSWCB, any conservation assistance grants awarded to SWCDs on a matching basis and requiring districts to raise funds from sources other than the Soil and Water Conservation Board prior to receiving such grants shall remain permanently with the soil and water conservation district granted the funds. The TSSWCB shall not require the SWCDs to return conservation assistance grant funds at the end of a fiscal year or at the end of a biennium.

Appropriation: Flood Control Dam Operation, Maintenance, and Structural Repair. Included in the amounts appropriated above in Strategy A.1.1, Program Management and Assistance, is $7,500,000 in each fiscal year out of the General Revenue Fund to provide funding for operations and maintenance, structural repair, and rehabilitation needs to flood control dams.

Contingency for House Bill 865. Contingent on passage of House Bill 865, or similar legislation relating to the establishment of the Texas Invasive Species Coordinating Committee, by the Eighty-first Legislature, Regular Session, the TSSWCB's "Number of Full-Time Equivalents" is increased by 1.0 for fiscal year 2010 and fiscal year 2011 to implement the provisions of the legislation.

C. Show your agency's expenditures by strategy. See Exhibit 5 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board
Exhibit 5: Expenditures by Strategy — Fiscal Year 2008 (Actual)

Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount (Includes Pass-Thru Grants)
Goal A.1.1. / Soil and Water Conservation Assistance	4,739,922.10	3,677,417.26
Goal B.1.1. / Statewide Management Plan	7,804,084.10	7,217,550.82
Goal B.1.2. / Pollution Abatement Plan	4,447,944.91	2,415,810.45
SUBTOTAL GOAL B:	12,252,029.01	9,633,361.27
Goal C.1.1. / Water Conservation and Enhancement	2,520,604.86	2,254,994.48
Goal D.1.1. / Indirect Administration	532,574.60	26,370.49
TOTAL:	20,045,130.57	15,592,143.50

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2009-2010. See Exhibit 6 Example or click here to link directly to the example. Add columns and rows as necessary.

Texas State Soil and Water Conservation Board
Goal A.1.1. / Soil and Water Conservation Assistance
Exhibit 6: Objects of Expense by Program or Function — Fiscal Year 2009

Object-of-Expense	Conservation Implementation Assistance (Technical Assistance) Grant Program	Conservation Assistance (Matching Funds) Grant Program	Field Representative Function	Soil and Water Conservation District Director Mileage & Per Diem Reimbursement Program	Soil and Water Conservation District Public Education and Information Program
Salaries and Wages	0	0	725,739.72	0	22,825.56
Other Personnel	0	0	31,197.80	0	1,750.00
Professional Fees and Services	0	0	0	0	0
Fuels and Lubricants	0	0	0	0	0
Consumables	0	0	3,000.00	0	500.00
Utilities	0	0	15,000.00	0	1,000.00
Travel	0	0	180,000.00	0	0
Rent-Building	0	0	20,000.00	0	0
Rent-Machine	0	0	3,500.00	0	1,174.44
Other Operating Expense	0	0	24,500.00	0	1,750.00
Grants	1,917,413.68	916,364.00	0.00	425,000.00	0
Total	1,917,413.68	916,364.00	1,002,937.52	425,000.00	34,000.00

Texas State Soil and Water Conservation Board
Goal B.1.1. / Statewide Management Plan
Goal B.1.2. / Pollution Abatement Plan
Goal C.1.1. / Water Conservation and Enhancement
Goal D.1.1. / Indirect Administration
Exhibit 6: Objects of Expense by Program or Function — Fiscal Year 2009

Object-of-Expense	Nonpoint Source Grant Program (State and Federal Funds)	Water Quality Management Plan Program	Poultry Water Quality Management Plan Program	Water Supply Enhancement Program (Texas Brush Control Program)	Indirect Administration
Salaries and Wages	464,854.92	1,101,639.64	296,450.88	147,373.14	400,375.90
Other Personnel	15,325.94	42,844.88	11,102.78	4,626.86	20,090.88
Professional Fees and Services	0	0	0	8,000.00	20,000.00
Fuels and Lubricants	5,041.00	23,150.00	7,200.00	8,500.00	0
Consumables	15,047.00	13,000.00	1,500.00	500.00	1,500.00
Utilities	8,227.00	20,500.00	6,500.00	3,200.00	8,000.00
Travel	29,656.00	49,000.00	6,000.00	23,000.00	70,000.00
Rent-Building	20,953.00	114,775.20	26,500.00	18,000.00	16,619.77
Rent-Machine	5,227.00	19,000.00	3,500.00	1,000.00	4,000.00
Other Operating Expense	37,512.12	170,215.49	28,749.12	12,853.00	20,413.45
Grants	4,268,610.00	2,316,426.15	144,500	1,673,953.63	0
Total	4,728,380.98	3,870,551.36	532,002.78	1,901,006.63	561,000.00

Some required agency programs or functions do not receive state or federal appropriations and are therefore not represented in Exhibit 6 (above). These may be (1) conceptual "umbrella" programs that include subprograms that do receive appropriations, (2) functions that are statutorily required and are funded through items of appropriation represented in Exhibit 6, or (3) new programs that received appropriations beginning in Fiscal Year 2010 (the SER instructions indicate Exhibit 6 should include information for Fiscal Year 2009 only). These additional programs or functions include:

- Flood Control Dam Operation and Maintenance Grant Program
- Flood Control Dam Structural Repair Grant Program
- Drought Preparedness Council Function
- Prescribed Burning Board Function
- Task Force on Economic Growth and Endangered Species Function
- Texas Nonpoint Source Management Program

- Coastal Coordination Council Function
- Coastal Nonpoint Source Pollution Control Program
- Watershed Protection Plan Program
- Texas Total Maximum Daily Load Program
- Texas Groundwater Protection Committee Function
- Nonpoint Source Water Quality Complaint Resolution Function
- Environmental Data Quality Management Function
- Water Conservation Advisory Council Function
- Texas Invasive Species Coordinating Committee Function

For a guide illustrating the relational hierarchy of all agency programs and functions, see Section VII of this report.

E. Show your agency's sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines. See Exhibit 7 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board
Exhibit 7: Sources of Revenue — Fiscal Year 2008 (Actual)

Source	Amount
General Revenue	12,489,005.02
Federal Funds	7,463,791.55
Interagency Contracts	92,334
TOTAL	20,045,130.57

F. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 8 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board
Exhibit 8: Federal Funds — Fiscal Year 2008 (Actual)

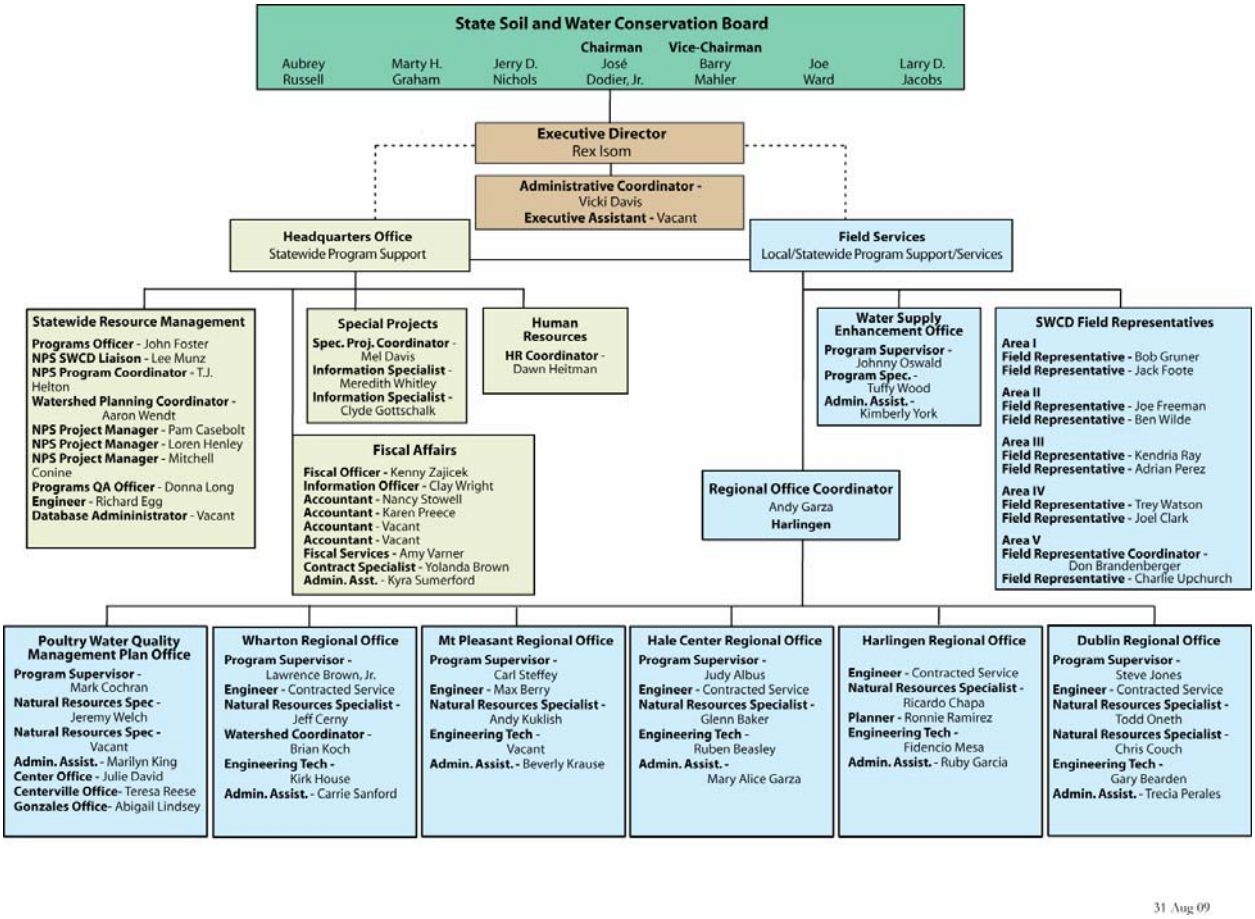
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
CFDA 10.912 Environmental Quality Incentive Program	50/50	929,600.62	929,600.62	1,858,201.24
CFDA 66.460 Nonpoint Source Implementation (Federal Pass-Through)	40/60	4,356,127.28	6,534,190.93	10,890,318.21
	TOTAL	**5,285,72.90**	**7,463,791.55**	**12,748,519.45**

G. If applicable, provide detailed information on fees collected by your agency. See Exhibit 9 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board Exhibit 9: Fee Revenue — Fiscal Year 2008				
Fee Description/ Program/ Statutory Citation	**Current Fee/ Statutory maximum**	**Number of persons or entities paying fee**	**Fee Revenue**	**Where Fee Revenue is Deposited** (e.g., General Revenue Fund)
N/A				

VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.



B. If applicable, fill in the chart below listing field or regional offices. See Exhibit 10 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board
Exhibit 10: FTEs by Location — Fiscal Year 2008

Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2008	Number of Actual FTEs as of August 31, 2008
Headquarters	Temple	22.5	21.35
Field Staff	Statewide	10.0	10.0
Harlingen Regional Office	Harlingen	5.0	5.0
Dublin Regional Office	Dublin	5.0	5.0
Wharton Regional Office	Wharton	5.0	5.0
Mt. Pleasant Regional Office	Mt. Pleasant	5.0	5.0
Hale Center Regional Office	Hale Center	5.0	5.0
Nacogdoches Program Office (Poultry)	Nacogdoches	4.0	4.0
Gonzales Program Office (Poultry)	Gonzales	1.0	1.0
Center Program Office (Poultry)	Center	1.0	1.0
Centerville Program Office (Poultry)	Centerville	1.0	1,0
San Angelo Program Office (WSEP)	San Angelo	3.0	3.0
	TOTAL	67.5	*66.35

* Figures are actual as of August 31, 2008

C. What are your agency's FTE caps for fiscal years 2008-2011?

Fiscal Year	Full-Time Equivalents (FTEs)	Notes
2008	67.5	
2009	67.5	
2010	72.5	1.0 FTE in Rider
2011	72.5	1.0 FTE in Rider

D. How many temporary or contract employees did your agency have as of August 31, 2008?

The Texas State Soil and Water Conservation Board (TSSWCB) had three (3) contracted engineer positions as of August 31, 2008.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program. See Exhibit 11 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board
Exhibit 11: List of Program FTEs and Expenditures — Fiscal Year 2008

Program	FTEs as of August 31, 2008	Actual Expenditures
Conservation Implementation Assistance (Technical Assistance) Grant Program	0.0	$2,181,737.99
Conservation Assistance (Matching Funds) Grant Program	0.0	$1,094,383.31
Field Representative Function	12.0	$1,036,529.45
Soil and Water Conservation District Director Mileage & Per Diem Reimbursement Program	0.0	$399,274.65
Soil and Water Conservation Public Education and Information Program	0.5	$27,996.70
Nonpoint Source Grant Program (State and Federal Funds)	9.6	$7,804,084.10
Poultry Water Quality Management Plan Program	7.0	$561,972.46
Water Quality Management Plan Program	26.0	$3,885,972.45
Water Supply Enhancement Program (Texas Brush Control Program)	3.0	$2,520,604.86
Indirect Administration	8.25	$532,574.60
TOTAL	66.35	$20,045,130.57

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

Texas State Soil & Water Conservation Board

Guide to Agency Programs & Functions

Programs are those items that are named in state or federal statute (including the Texas General Appropriations Act), or are developed by the agency to carry out a responsibility required by state or federal statute.

Functions are activities that are necessary in order to administer programs, or activities related to membership on a statutory council, committee, or task force.

- Conservation Implementation Assistance (Technical Assistance) Grant Program
- Conservation Assistance Matching Funds Grant Program
- Field Representative Function
- Soil and Water Conservation District Director Mileage and Per Diem Reimbursement Program
- Soil and Water Conservation Public Education and Information Program
- Flood Control Dam Operation and Maintenance Grant Program
- Flood Control Dam Structural Repair Grant Program
- Drought Preparedness Council Function
- Prescribed Burn Board Function
- Task Force on Economic Growth and Endangered Species Function
- Texas Nonpoint Source Management Program
    - Coastal Coordination Council Function
    - Coastal Nonpoint Source Pollution Control Program
    - Nonpoint Source Grant Program (State & Federal Funds)
        - Watershed Protection Plan Program
    - Texas Total Maximum Daily Load Program
    - Texas Groundwater Protection Committee Function
    - Water Quality Management Plan Program
        - Poultry Water Quality Management Plan Program
    - Nonpoint Source Water Quality Complaint Resolution Function
    - Environmental Data Quality Management Function
- Water Supply Enhancement Program / Texas Brush Control Program
- Water Conservation Advisory Council Function
- Texas Invasive Species Coordinating Committee Function

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Conservation Implementation Assistance Grant Program [Commonly referred to as the Technical Assistance Program]
Location/Division	Fiscal Affairs
Contact Name	Kenny Zajicek, Fiscal Officer
Actual Expenditures, FY 2008	$2,181,737.99
Number of FTEs as of August 31, 2008	0

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Conservation Implementation Assistance Grant Program, commonly referred to as the Technical Assistance Program, was first authorized through an appropriation for the 1984-1985 biennium by the 68th Legislature. The objective of this program is to provide funding to local soil and water conservation districts (SWCDs) for the purpose of employing soil conservation technicians to provide technical natural resource conservation planning assistance to owners and operators of agricultural or other lands. This work includes gathering supplementary planning data and information on the physical features of farms and/or ranches, performing survey and layout work, explaining and/or demonstrating methods of applying conservation practices such as contour cultivation, terracing, tree planting, woodland improvement, seasonal or other irrigation practices, range practices, fertilizing, seeding, and land preparation operations. The technicians are also responsible for follow-up on the application and maintenance of planned conservation practices.

Over the years, losses in soil erosion and its affects on productivity have been overshadowed by improved crop varieties, fertilizers, better control of pests and diseases, and improved seeding and land preparation. Technology increases yields despite losses in topsoil but does not address the permanent effects to our land. Farmers and ranchers are now dependant on increasingly expensive technology advancements to maintain the improved yields. As rising oil prices continue to impact the costs of agriculture production in the state, installing and maintaining proper conservation practices becomes increasingly important to ensure that the state's farm and ranch land remains productive.

It is the goal of the Texas State Soil and Water Conservation Board (TSSWCB) to ensure that conservation implementation assistance is available to each landowner in the state, and that through this program each acre of land in Texas is utilized within its capabilities and treated according to its needs. As

the state population continues to increase, maintaining the productivity of our farm and ranch land becomes more and more vital in meeting the food and fiber needs of the state.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

An examination of the "delivery system" that the TSSWCB and local SWCDs present for the state provides ample evidence that it is the most efficient and effective mechanism for conducting natural resource conservation and protection programs. Eighty (80) percent of all funding administered by the agency is exclusively "pass-through" to end-users such as agricultural producers or other rural landowners. The TSSWCB has maintained a very low 3% indirect administrative rate for the last three biennia, which is a continuing high priority of the State Board. The remaining 17% is made up of technical program support provided to local SWCDs and agricultural producers through a modest network of regional offices and field personnel. These efficiencies are made possible because the agency's main program responsibilities are administered through the assistance of SWCDs at the local level. Without their local presence and viability, the overall cost in administering agency programs would likely be significantly higher. Grants through the Conservation Implementation Assistance Grant Program represent the funding that allows for each SWCD to maintain an employee at the local level, therefore creating the efficiencies associated with the TSSWCB and SWCD conservation delivery system.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

From the initial appropriation of technical assistance funds for the 1984-1985 biennium through the 2006-2007 biennium, the budget of approximately $1.1 million for this program remained consistent and unchanged. In contrast, the average salary cost for SWCDs to employ a technician increased from $6 / hour to $15 / hour and inflation has impacted the power of those dollars available. In addition since 1984, the USDA - Natural Resources Conservation Service (NRCS) reduced their staff responsible for planning, design, and application of conservation practices by 35% (NRCS provides guidance to SWCDs on technical aspects of conservation planning through a memorandum of understanding).

Because of those factors, the TSSWCB requested an additional $806,408 for the 2008-2009 biennium through an exceptional item request which was appropriated in the amounts requested. For the 2010-2011 biennium, the TSSWCB again requested an increase in technical assistance funding from the Legislature through another exceptional item request for $677,200 for additional funding to be directed to those SWCDs that were actively participating in a Watershed Protection Plan (WPP) or Total Maximum Daily Load (TMDL) which the TSSWCB had determined included a significant agricultural or silvicultural nonpoint source pollution component. This additional request also included enough funding to account for a 5% "cost of living" adjustment.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

This program primarily affects SWCDs and their ability to employ a conservation planning technician, and the agricultural producers and other rural landowners that benefit from their expertise. Indirectly, the

entire State of Texas benefits from the natural resource conservation and environmental protection that is the consequence of their combined efforts.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Prior to the start of each biennium, SWCDs submit budget requests for technical assistance funding based on their local conservation needs, goals, and objectives. The TSSWCB evaluates these budget requests, as well as other pertinent factors such as availability of funds and emerging conservation priorities, and makes an allocation to each SWCD. SWCDs then submit reimbursement requests for funds out of their specific allocation depending on the rate at which SWCD personnel perform work. These grant funds are only used for expenses that occur during the fiscal year for which they were allocated. Grant distributions are made contingent upon annual Conservation Implementation Technical Assistance expenditure summary reports submitted to the TSSWCB and are subject to a year-end reconciliation. This program is administered by the TSSWCB's Fiscal Affairs department through the coordination assistance of the agency's Field Representative function (see program/function description of Field Representative Function in Section VII for more information).

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the Conservation Implementation Assistance Grant Program, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

A. Goal: SOIL AND WATER CONSERVATION ASSISTANCE
Soil and Water Conservation Assistance

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622

*Appropriation Rider:
4. Allocation of Grant Funds. Out of the amounts appropriated above to the Soil and Water Conservation Board, any Conservation Implementation Technical Assistance grant funds to the soil and water conservation districts shall be used for expenses occurring in the fiscal year in which the grant funds are allocated. Grant distributions are made contingent upon districts filing annual Conservation Implementation Technical Assistance expenditure summary reports with the Soil and Water Conservation Board and are subject to a year-end reconciliation.

Out of Strategy A.1.1, $3,556,308 will be used for the 2010-2011 biennium to fund the Conservation Implementation Assistance Grant Program and supplements. When available, the TSSWCB applies for federal TSP grant funds from the NRCS which are used to match a portion of this program's funding. Although the federal funding is contingent on federal appropriations and may not be available for

2010/2011. Other programs funded with monies from Strategy A.1.1 include the Conservation Implementation Matching Funds Grant Program, Flood Control Operation and Maintenance Grant Program, Flood Control Structural Repair Grant Program, and SWCD Director Mileage and Per Diem reimbursements. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

From the inception of the Conservation Implementation Assistance Grant Program during the 1984-1985 biennium, a reappropriation rider was included in the TSSWCB's bill pattern within the General Appropriations Act:

> **Reappropriation: District Unexpended Balances.** Any unexpended balances in the reappropriation of funds and properties to the Soil Conservation Districts are hereby reappropriated for the biennium with the effective date of this act, for the purposes provided under the soil conservation statutes.

This language (and similar) was included in each General Appropriations Act until the 2004-2005 biennium when the existing rider language was deleted and replaced with:

> **Allocation of Grant Funds.** It is the intent of the Legislature that Technical Assistance grant funds appropriated to the Soil and Water Conservation Board for the Soil and Water Conservation Districts be distributed to districts on a reimbursement basis during the fiscal year when expenditures are incurred. Grant distributions are made contingent upon districts filing annual technical assistance expenditure summary reports with the Soil and Water Conservation Board.

The subsequent effect of this change was a requirement that all technical assistance grants would be made on a reimbursement basis. One additional change was made to the rider for the 2008-2009 biennium clarifying that the annual grant distributions were subject to "year-end reconciliation." This is the form the rider exists in for the 2010-2011.

As included in Section D (above), increases in the program budget occurred for the 2008-2009 and 2010-2011 biennia for specific purposes.

Grant funds through the Conservation Implementation Assistance Program have also been used to match a significant amount of federal technical assistance funds through the NRCS. Starting with the 2002 Farm Bill, the NRCS was appropriated "Technical Service Provider" (TSP) funds that were exclusively to be used to "outsource" certain technical aspects related to the administration of federal programs authorized by the Farm Bill such as the Environmental Quality Incentives Program (EQIP). SWCDs have been able to receive approximately $450,000 dollars annually from the NRCS by serving as a technical service provider for certain Farm Bill programs.

In certain cases, the TSSWCB's Statewide Nonpoint Source Grant Program may contract with one or more SWCDs to provide additional conservation planning in certain areas to address a specific water quality concern. The Statewide Resource Management Department of the agency negotiates the scopes of work associated with these contracts, which often include enough resources to employ a conservation technician for a three year period of time. Occasionally additional funding is added to extend the contracts if the scope of work was not completed in the time allotted. The funding for these contracts originates from Strategy B.1.1 through either federal Clean Water Act, Section 319(h) funds or general revenue. This funding is considered outside the scope of and in addition to any Conservation Implementation Assistance Grant Program funding.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Aside from the TSP funds administered by the NRCS, no other internal or external grant programs are currently available to SWCDs for technical assistance.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TSP funds were initially obligated from the NRCS to individual SWCDs through cooperative agreements without the coordination of the TSSWCB. Starting in 2006, the NRCS directly entered into a cooperative agreement with the TSSWCB for the entire amount of TSP funding that is available on an annual basis for SWCDs *(not all TSP funding is directed toward SWCDs)*. By making this change, the TSSWCB is able to allocate TSP funding, much the same way that state-funded technical assistance grant are allocated, in a manner that creates flexibility throughout the course of a fiscal year. When one SWCD appears unlikely to expend an allocation in its entirety, the TSSWCB is able to reallocate those funds to another SWCD that appears likely to expend all of their allocation prior to the end of the fiscal year.

The Fiscal Affairs department monitors both state-funded technical assistance grants and well as federally-funded TSP grants to individual SWCDs to ensure adequate documentation exists for reporting requirements for TSP dollars. The Fiscal Affairs department coordinates proper matching requirements between the two sources of funding. The Fiscal Affairs department also maintains documentation submitted from each SWCD receiving TSP funding so that TSSWCB can provide NRCS evidence that TSP dollars are being utilized for assistance on federal Farm Bill programs only.

The Statewide Resource Management department coordinates with Fiscal Affairs to ensure that all SWCDs which receive federal Clean Water Act, Section 319(h) or general revenue from Strategy B.1.1 in addition to funds through the Conservation Implementation Assistance Grant Program are for separate work. This measure is in place to ensure that the agency doesn't reimburse the same work twice at the local level.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Conservation Implementation Assistance Grant Program is exclusively for SWCDs to employ conservation technicians. No other local, state. Or federal units of government are involved in the program. The federal NRCS supplies some funding that is matched with grants from this program, but interaction concerning that matching relationship is coordinated directly through the TSSWCB.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**

- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in fiscal year 2008 are $2,181,737.99. Under this program, the State Board allocates funding to SWCDs to be used for employing soil and water conservation technicians. The funding is reimbursement only and annual performance reports are required at the end of each fiscal year. Approximately 216 SWCDs are participating in this program with 2008 funding.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Conservation Assistance Matching Funds Grant Program
Location/Division	Fiscal Affairs
Contact Name	Kenny Zajicek, Fiscal Officer
Actual Expenditures, FY 2008	$1,094,383.31
Number of FTEs as of August 31, 2008	0

B. What is the objective of this program or function? Describe the major activities performed under this program.

In 1969, the Legislature authorized the State Board to provide funds on a dollar-for-dollar matching basis to local Soil and Water Conservation Districts (SWCDs). These funds are used for daily operating expenses. SWCDs must raise sufficient additional local funds to match the state allocation prior to the receipt of state funds. The Texas State Soil and Water Conservation Board (TSSWCB) has adopted guidelines for the proper use of these funds and the sources that local districts may use to raise matching funds. SWCDs were created without taxing authority which makes it challenging to fund a local soil and water conservation program. The Conservation Assistance Matching Funds Grant Program was the first attempt by the Legislature to appropriate funds on a continuing basis for SWCDs.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The fact that an equal amount of funds must be raised locally before state funds are granted verifies that a need exists and that there is an interest in a soil and water conservation program at the local level which has helped to make this program so successful.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

No significant changes have occurred since this program's inception that impact its original intent.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Conservation Assistance Matching Funds Grant Program provides funding exclusively to SWCDs for daily operating expenses. No other persons or entities are affected through this program, aside from the indirect benefits a SWCD's clientele may receive because of the SWCD's ability to carry out its local soil and water conservation program.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Within the funding constraints allowed by legislation, the TSSWCB makes allocations to SWCDs each fiscal year once documentation of non-state funded match has been provided to the TSSWCB. Once allocations have been made and adequate documentation of match has been provided, SWCDs request matching funds which are dispersed up to the maximum allocation set by the TSSWCB.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the Conservation Assistance Matching Funds Grant Program, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

A. Goal: SOIL AND WATER CONSERVATION ASSISTANCE
Soil and Water Conservation Assistance

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622*

*Riders:
3. Matching Requirements. Funds appropriated above for conservation assistance grants for soil and water conservation districts may be expended only when matched by equal amounts from sources other than state funds or earnings from state funds, not to exceed $7,500 in any district per fiscal year.

7. Conservation Assistance to the SWCDs. Out of the amounts appropriated above to the TSSWCB, any conservation assistance grants awarded to SWCDs on a matching basis and requiring districts to raise funds from sources other than the TSSWCB prior to receiving such grants shall remain permanently with the soil and water conservation district granted the funds. The TSSWCB shall not require the SWCDs to return conservation assistance grant funds at the end of a fiscal year or at the end of a biennium.

Out of Strategy A.1.1, $1,832,728 will be used for the 2010-2011 biennium to fund the Conservation Assistance Matching Funds Grant Program, however the need greatly exceeds the amount of funding available. Other programs funded with monies from Strategy A.1.1 include the Conservation Implementation Assistance Grant Program, Flood Control Operation and Maintenance Grant Program, Flood Control Structural Repair Grant Program, Public Information and Education Program, and SWCD Director Mileage and Per Diem reimbursements. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other programs, internal or external, provide identical or similar services or functions.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Other local governments, federal agencies, or individuals may contribute the non-state matching funds required through this program to a specific SWCD. The nature of those contributions are very diverse and exist through agreements and partnerships developed at the local level. The TSSWCB requires documentation of the non-state contributions prior to state matching funds being dispersed.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in Fiscal Year 2008 are $1,094,383.31. Under this program, the TSSWCB allocates funding to SWCDs on a dollar for dollar matching basis to assist with projects and operating costs. 216 SWCDs participated in this program with 2008 funding.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Agency Field Representative Function
Location/Division	Field Services
Contact Name	Rex Isom, Executive Director Don Brandenberger, Field Representative Coordinator
Actual Expenditures, FY 2008	$986,265.17
Number of FTEs as of August 31, 2008	11.5

B. What is the objective of this program or function? Describe the major activities performed under this program.

As the state agency responsible for providing assistance to local soil and water conservation districts (SWCDs), the Texas State Soil and Water Conservation Board (TSSWCB) employs field representatives to serve as liaisons to communicate with and coordinate agency assistance programs with local SWCDs. This agency function is vital due to the complexity of coordinating state programs through 216 individual political subdivisions, and the importance that state and federal appropriations are administered in accordance with applicable law and guidelines. Field representatives also serve as legislative liaisons with city, county, state and federal officials and staff to inform them about SWCDs and conservation programs and activities.

Field representatives attend SWCD board meetings on a regular basis and oversee SWCD directors in local program planning, development and implementation and in promoting conservation programs. They confer with SWCD directors on programs and needs of the SWCD, provide technical advice in preparation of SWCD programs, work plans, and annual calendars of activities. Field representatives coordinate with and advise SWCDs with the implementation of all agency programs, in addition to all federal conservation programs administered by the USDA - Natural Resource Conservation Service (NRCS). Field representatives are responsible for being knowledgeable of current rule changes affecting agriculture and conservation and interpret and advise local SWCDs of such changes. They oversee and direct agency SWCD operation activities within their specified geographic area.

Field representatives also analyze and coordinate financial affairs of SWCDs, and provide guidance on proper expenditure of SWCD funds such as bookkeeping and procedures, audit procedures, and purchase and sale of property and equipment. They advise SWCDs on grant procurement and administration, and train SWCD employees in proper accounting and reporting procedures. Field representatives provide oversight and monitoring of SWCD reporting activities and train SWCD employees on annual financial

statements, IRS forms, Texas Workforce Commission forms, Open Meetings Act, Open Records Act, accounting procedures.

Field representatives superintend training and development opportunities for SWCD directors and as well as their employees. They explain TSSWCB policies, programs, state laws, rules and regulations pertaining to operations of SWCDs, and provide information to SWCDs as requested. They explain Conservation Implementation Assistance grants and reporting procedures, Conservation Assistance Matching Funds grants, elections procedures, civil rights issues, state funds, trust funds, and director travel.

Additionally, field representatives refine and advance efficient relations with farmers, ranchers, state and federal representatives, local officials, professional groups and others engaged in promoting conservation programs. They direct and promote public information and education activities in the field, and serve on committees representing SWCDs and the TSSWCB. They also represent SWCD and the TSSWCB at public meetings.

Other activities include coordinating with and supporting SWCD directors in organizing and conducting youth activities in the field of soil and water conservation such as educational workshops and tours for students. Field representatives oversee planning woodland, soil evaluation, plant identification, range evaluation and wildlife contests, and assist with finding locations, workers, and judges. They also serve on organizing committees and help with conducting actual contest or workshop.

Field representatives supervise and provide leadership and guidance for the development and expansion of soil and water conservation programs within their geographic area such as TSSWCB regional offices, SWCD area associations, and conservation workshops. They also set up SWCD area association meetings and banquets, State Board member elections, training workshops, tours, clinics, and area conservation awards programs.

Field representatives coordinate their field activities with TSSWCB administration by attending monthly staff meetings with staff in other agency departments, and advise administration on rule changes, SWCD comments, state board policy, program implementation, and other issues that require knowledge gained from personal contact with districts.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

An examination of the "delivery system" that the TSSWCB and local SWCDs present for the state provides ample evidence that it is the most efficient and effective mechanism for conducting natural resource conservation and protection programs. Eighty (80) percent of all funding administered by the agency is exclusively "pass-through" to end-users such as agricultural producers or other rural landowners. The TSSWCB has maintained a very low 3% indirect administrative rate for the last three biennia, which is a continuing high priority of the State Board. The remaining 17% is made up of technical program support provided to local SWCDs and agricultural producers through a modest network of regional offices and field personnel. These efficiencies are made possible because the agency's main program responsibilities are administered through the assistance of SWCDs at the local level. Without their local presence and viability, the overall cost in administering agency programs would likely be significantly higher. Field representatives are the agency's primary means of communication with local SWCDs. Their regular contact and communication with SWCDs facilitates proper fiscal management of

agency pass-through funding, improved local administration of duties associated with agency programs that are delegated to SWCDs, and overall conservation program coordination with state and federal priorities, therefore creating the efficiencies associated with the TSSWCB and SWCD conservation delivery system.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Agency Field Representative Function has not changed significantly in recent years.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Agency Field Representative Function primarily affects local SWCDs and SWCD directors, however, the indirect impact of the function affects all SWCD clientele through the efficient administration of an effective local soil and water conservation program.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Texas has 216 individually organized SWCDs, each receiving varying extents of financial assistance through the TSSWCB. Currently the TSSWCB employees ten (10) field representatives to coordinate activities with all SWCDs. Each field representative meets regularly with each SWCD, and then coordinates with TSSWCB administration and other agency departments through monthly staff meetings. The field representatives are coordinated by the Field Representative Coordinator who reports to the agency executive director.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Agency Field Representative Function is administered with general revenue appropriated by the Legislature from the following strategy:

A. Goal: SOIL AND WATER CONSERVATION ASSISTANCE
Soil and Water Conservation Assistance

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622

Out of Strategy A.1.1, $2,130,000.00 will be used for the 2010-2011 biennium to fund the Agency Field Representative Function. This consists of personnel and operating expenses associated with

assisting SWCDs in the delivery of TSSWCB programs, coordinating and implementing the Annual State Meeting of SWCDs, and the monitoring and performance of other programs funded with monies from Strategy A.1.1. Other programs within this strategy include the Conservation Implementation Matching Funds Grant Program, Conservation Assistance Matching Funds Grant Program, Flood Control Operation and Maintenance Grant Program, Flood Control Structural Repair Grant Program, and SWCD Director Mileage and Per Diem reimbursements. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other programs or functions perform similar services.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Agency Field Representative Function involves routine coordination with legislative staff, city and county officials, as well as state and federal officials to inform them about SWCDs and conservation programs and activities. Additionally, field representatives refine and advance efficient relations with farmers, ranchers, state and federal representatives, local officials, professional groups and others engaged in promoting conservation programs. They direct and promote public information and education activities in the field, and serve on committees representing SWCDs and the TSSWCB. They also represent SWCD and the TSSWCB at many public meetings.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

No contracted expenditures are made through this program.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	SWCD Director Mileage and Per Diem Program
Location/Division	Fiscal Affairs
Contact Name	Kenny Zajicek, Fiscal Officer
Actual Expenditures, FY 2008	$399,274.65
Number of FTEs as of August 31, 2008	0

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Soil and Water Conservation District (SWCD) Director Mileage and Per Diem Program is a statutorily required program to reimburse SWCD directors for their travel expenses incurred while performing their duties as specified in Chapter 201, Agriculture Code.

Agriculture Code, Sec. 201.013 states that for the purpose of electing a member to the state board, each state district shall conduct a convention attended by delegates elected from each SWCD in the state district. Section 201.013 (e) specifies that each delegate to a state district convention, or an alternate attending in the place of a delegate, is entitled to a per diem of $30 a day for not more than two days and the state mileage reimbursement rate specified in the General Appropriations Act for travel each way between the county seat of the delegate's residence and the convention site. The state board is required to pay the per diem and travel allowance.

Agriculture Code, Sec. 201.077 specifies that a SWCD director may receive compensation in an amount not to exceed $30 for each day the director attends meetings of the board of directors, plus the state mileage reimbursement rate specified in the General Appropriations Act for travel each way between the residence of the director and a designated meeting place within the boundaries of the SWCD. Section 201.077 (b) further specifies that a director is entitled to be paid quarterly, but may not receive the compensation and mileage allowance for more than five days in any three-month period except as provided for attending an annual meeting or a state district convention. Further, Section 201.077(c) states that two directors are entitled to receive $30 a day for not more than two days, and one director is entitled to receive the state mileage reimbursement rate specified in the General Appropriations Act for travel, while attending the annual statewide meeting of directors.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey

the effectiveness and efficiency of this function or program.

The SWCD Director Mileage and Per Diem Program is a statutorily required program to reimburse SWCD directors for their travel expenses incurred while performing their duties as specified in Chapter 201, Agriculture Code. As such, no specific measure of effectiveness or efficiency is applicable, other than the expeditious reimbursement of claims.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Until the enactment of House Bill 496 during the 80th Regular Legislative Session, SWCD directors were limited to 10-cents per mile reimbursement for travel related to attending local SWCD meetings, state board member election conventions, and the annual state meeting of SWCD directors. House Bill 496 amended Agriculture Code, Sections 201.077(a) and (c) to allow for SWCD directors to be reimbursed the state mileage reimbursement rate specified in the General Appropriations Act.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

This program exclusively applies to SWCD directors.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Mileage and per diem payments are made via reimbursement as requested in accordance with Chapter 201, Agriculture Code.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the SWCD Director Mileage and Per Diem Program, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

A. Goal: SOIL AND WATER CONSERVATION ASSISTANCE
Soil and Water Conservation Assistance

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622

Out of Strategy A.1.1, $869,020 will be used for the 2010-2011 biennium to fund the SWCD Director Mileage and Per Diem Program, depending on claims made in a year. Other programs funded with monies from Strategy A.1.1 include the Conservation Implementation Grant Program, Conservation Assistance Matching Funds Grant Program, Flood Control Operation and Maintenance Grant Program, and Flood Control Structural Repair Grant Program. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other programs provide for mileage and per diem reimbursement for SWCD directors.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

NA

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in fiscal year 2008 are $399,274.65. Under this program, the State Board allocates funding to SWCDs for certain district director travel-related expenses in accordance with chapter 201.077 of the Texas Agriculture Code.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Soil and Water Conservation Public Information and Education Program
Location/Division	Specials Projects
Contact Name	Mel Davis, Special Projects Coordinator
Actual Expenditures, FY 2008	$27,996.70
Number of FTEs as of August 31, 2008	0.5

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the public information/education program is to provide leadership and coordination of information/education programs relating to the Texas State Soil and Water Conservation Board (TSSWCB) and soil and water conservation district (SWCD) programs, services, operations and resources. The TSSWCB prepares and disseminates public information relative to the agency and SWCD functions, programs, events and accomplishments for the public and to farmers and ranchers. TSSWCB staff coordinates seminars, conferences, workshops, displays at trade shows and training for SWCD directors and SWCD employees, conservation professionals, youth groups and other entities. Staff provides guidance to SWCDs with their own individual information/education programs as well as regional and state information/education programs initiated by SWCDs. Staff prepares and disseminates press releases, news stories and printed promotional products. The TSSWCB monitors the use of the publications and use of information. Staff represents the agency as needed with various information/education groups and entities. The TSSWCB has a cooperative agreement with the Association of Texas Soil and Water Conservation Districts (ATSWCDS) to provide assistance and help with the organization's information and education efforts.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The TSSWCB's information education program is enveloped in performance measure output 01-01-02 which deals with rural and urban outreach programs. Enveloped in this broad measure, the TSSWCB's information and education program prepares and helps deliver SWCD director and employee training, coordinates media programs, campaigns, youth and adult conservation education programs and provides

information/education assistance to other entities within respective program areas. Though the following programs mentioned below have a longer history, FY 2008-09, will be used as an example, to benchmark an average two-year cycle to convey statistics which began to be kept during that cycle. During fiscal year 08-09 approximately 4,500 Texas youth had the opportunity to experience soil, water and related resource conservation management techniques through a state wide program in which the TSSWCB collaborates with the Texas FFA organization. Other exampled educational programs such as annually sponsored public speaking contests related to soil and water stewardship as well as other annual youth education programs are conducted to help instill a soil, water, and related natural resource conservation ethic in Texas youth.

Over 100 newly elected and or appointed SWCD directors and conservation district staff received training in SWCD operations and programs to help them to better serve agricultural landowners and operators in local communities in which the soil and water conservation district is headquartered and serves.

Another major component of the performance measure relates to media relations. The TSSWCB, through its public information/education program, developed and maintains a data base of approximately 520 paid-circulation newspapers reaching about 3.8 million readers in the state. The public information/education staff maintains the data base, though all agency staff uses the data base to disseminate information to the media that would be of interest to the public. The uniqueness of the data base enables the agency to electronically target media releases to a statewide audience, or if pertinent, to a regional, sub region, or to a specific county's publications.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The TSSWCB's information and education program has been a directive and component of the agency's operation since the State Conservation Law was adopted; however, specific personnel to carry out this component were not authorized until the 64th Legislative Session in 1975. Prior to 1975, no professional staff was employed by the TSSWCB with specific authorized information/education responsibilities.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Detailed answers to this section are reported in Item C above.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Public Information Education Program is administered under the general direction of the agency's executive director; however, the program is specifically enveloped under the Special Projects section. One full time information specialist and one half-time information specialist report to the Special Projects Coordinator on a day-to-day basis.

Under the Special Projects Section, staff provides direct information/education support to the 216 SWCDs in the state as well as provides support to TSSWCB program offices.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the Soil and Water Conservation Public Information and Education Program, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

A. Goal: SOIL AND WATER CONSERVATION ASSISTANCE
Soil and Water Conservation Assistance

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622

Out of Strategy A.1.1, $81,372 will be used for the 2010-2011 biennium to fund the Soil and Water Conservation Public Information and Education Program. Other programs funded with monies from Strategy A.1.1 include the Conservation Implementation Grant Program, Conservation Assistance Matching Funds Grant Program, Flood Control Operation and Maintenance Grant Program, and Flood Control Structural Repair Grant Program. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The Texas State Legislature has established a need for the protection of soil and water conservation resources of the state as mandated in Article 16, Section 59A of the Texas Constitution. In addition, the Legislative intent is established in Section 201 and 203 of the Agriculture Code. As a result, the TSSWCB is unique in its work and mission, thus the agency's information/education program is mission specific and thus not duplicated or similar in services and functions of other agencies.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TSSWCB has, since the 1960's, a memorandum of understanding with the ATSWCD in which the Executive Director of the TSSWCB is authorized to assign agency staff members to serve as a liaison with the ATSWCD to assist the entity with its day-to-day operations. Because the ATSWCD's organizational structure and membership is composed of SWCDs throughout the state, the TSSWCB's information/education staff does provide some assistance to the ATSWCD's education efforts because of the statutory relationship of SWCD to the TSSWCB.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Periodically, the TSSWCB and the NRCS cooperate on mutual information/education efforts to coordinate state and federal programs being administered by local SWCDs to enable landowners and operators implement soil, water and related conservation programs on private farms and ranches within the SWCD.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Flood Control Dam Operation and Maintenance Grant Program
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer
Actual Expenditures, FY 2008	NA *(New program funded for 2010-2011 biennium)*
Number of FTEs as of August 31, 2008	NA *(New program funded for 2010-2011 biennium)*

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Flood Control Dam Operation and Maintenance Grant Program is one of two new programs the Texas State Soil and Water Conservation Board (TSSWCB) is currently in the process of developing and implementing in response to an appropriation for the 2010-2011 biennium. The Texas Legislature appropriated $15 million dollars to the TSSWCB for the operation, maintenance, repair and rehabilitation of approximately 2,000 federally designed and constructed flood control dams in Texas. In order to deliver these dollars, the TSSWCB is developing one grant program to address operation and maintenance (O&M) needs, and another to address structural repair needs. The separation of the two activities is being done to increase efficiency and flexibility due to the difference in complexity of both the nature of O&M and repair activities, as well as differences in the complexity in the administrative needs. O&M activities are relatively routine and uncomplicated in nature, where structural repair activities are more complicated in that they involve extensive engineering design specifications and more elaborate concurrence requirements from regulatory agencies such as the Texas Commission on Environmental Quality (TCEQ) Dam Safety Program. Local soil and water conservation districts (SWCDs), in partnership with other local governments, are sponsors for all sponsors of the flood control dams, therefore the TSSWCB is developing both programs to provide "pass-through" grants to SWCDs. Rules for the O&M Grant Program were developed during the Summer of 2009, published in the Texas Register for a 30-day public comment period between July 31, 2009 and August 31, 2009, and adopted by the State Board on September 17, 2009.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

As this is a newly developing program, no evidence that shows effectiveness or efficiency exists yet. However, because this is a construction-oriented grant program, proof evidencing the effectiveness of this program will be readily available as work progresses. The TSSWCB is requiring that each SWCD record the type and amount of each O&M activity conducted through this program at the time reimbursement is requested. Summary information on the program will be available at any time during FY2010, but complete program statistical data will be compiled for review upon the end of each fiscal year.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Nearly 2,000 floodwater retarding structures, or dams, have been built over the last 60 years within the State of Texas. These structures are commonly called flood control dams, watershed structures, or flood prevention or "FP" sites. For the sake of understanding the scale of these dams, they generally appear as a series of small lakes or very large stock ponds from the air. The primary purpose of the structures is to protect lives and property by reducing the velocity and volume of floodwaters, and thereby releasing flows at a safer rate.

They are earthen dams that exist on private property, and were designed and constructed by the USDA Natural Resources Conservation Service (NRCS). They were built with the understanding that the private property owner would provide the land, the federal government would provide the technical design expertise and the funding to construct them, and then units of local government would be responsible for maintaining them into the future.

The units of local government that are responsible for the O&M of these dams are referred to as "local sponsors." Local sponsors always include the SWCD, and one or more others such as a municipality, county, or water control and improvement district (WCID). In order for the NRCS to agree to design and construct the dams, they required that a group of co-sponsors enter into an "O&M Agreement" for each series of dams. SWCDs were included in the agreements due to their longstanding role as a local sponsor and partner for virtually all NRCS programs associated with soil and water conservation. However, Texas SWCDs are not provided the authority by the Legislature to levy taxes, therefore other "co-sponsors" such as the others mentioned above were always included in these agreements prior to design and construction. This was to ensure that the ability to generate at least some funding for O&M activities existed.

Over the years, some of the non-SWCD co-sponsors have done an outstanding job at providing minimum levels of O&M funding for these dams. Unfortunately, there are a lot of cases where the "taxing" partner has not provided adequate funding, or has been unable to generate adequate funding due to their local tax-base or other hardship conditions. In any event, the combination of the (1) number of these dams, the (2) increase in population and development projects below their spillways, and the (3) simple fact that as time goes by, various mechanical and structural components to these dams simply wear out, has lead to a significant lack of maintenance.

Local SWCDs approached the TSSWCB about the growing maintenance issue, as well as the growing need for repairs on certain dams, and requested the TSSWCB include an exceptional budget request for funding to conduct operation, maintenance, repair, and rehabilitation on flood control dams. The TSSWCB included a request for funding to conduct this work, and it was appropriated for the 2010-2011 biennium by the Legislature.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The funding for this program primarily affects SWCDs and other local governmental units responsible for performing O&M on flood control dams. Indirectly, all interests that may be affected by flood damage benefit from the program.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

For the O&M Grant Program, the TSSWCB has chosen to make allocations to all SWCDs that serve as sponsors for flood control dams and recorded an O&M need in a statewide survey conducted by the NRCS during the Spring and Summer of 2008 *(the survey results were the fiscal basis for the exceptional item request that resulted in the new appropriation)*. Once an allocation has been made, SWCDs may carry out O&M duties as defined by the program rules and request reimbursement for their expenses up to the amount of their allocation. This program requires a 10% match from sources other than state appropriations which may be achieved through in-kind contributions or actual dollars. SWCDs must provide documentation of in-kind contributions at standardized rates adopted by the TSSWCB at the time reimbursement is requested.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the Flood Control Dam Operation and Maintenance Grant Program, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

A. Goal: SOIL AND WATER CONSERVATION ASSISTANCE
Soil and Water Conservation Assistance

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622*

*Riders:
8. Appropriation: Flood Control Dam Operation, Maintenance, and Structural Repair. Included in the amounts appropriated above in Strategy A.1.1, Program Management and

Assistance, is $7,500,000 in each fiscal year out of the General Revenue Fund to provide funding for operations and maintenance, structural repair, and rehabilitation needs to flood control dams.

Out of Strategy A.1.1, the TSSWCB will use $4,944,000 out of the available $15,000,000 for the Flood Control Dam Operation and Maintenance Grant Program during the 2010-2011 biennium. Other programs funded with monies from Strategy A.1.1 include the Conservation Implementation Assistance Grant Program, Conservation Assistance Matching Funds Program, Flood Control Structural Repair Grant Program, Public Information and Education Program, and SWCD Director Mileage and Per Diem reimbursements. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other state or federal programs provide grants to local sponsors for O&M activities on flood control dams.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Allocations will be made to SWCDs who will then coordinate all O&M activities the appropriate other local governments. Other local governments such as WCIDs, counties, and municipalities are routinely party to the O&M agreements that exist for all flood control dams. SWCDs may subcontract O&M work to any of those entities, or those entities may contribute in-kind match toward a project or projects. Local partnerships are unique and diverse. No involvement is anticipated by federal agencies with respect to O&M grants, however, extensive federal involvement is expected on grants through the Structural Repair Grant Program *(see individual program description)*.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA for FY2008.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Flood Control Dam Structural Repair Grant Program
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer
Actual Expenditures, FY 2008	NA *(New program funded for 2010-2011 biennium)*
Number of FTEs as of August 31, 2008	NA *(New program funded for 2010-2011 biennium)*

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Flood Control Dam Structural Repair Grant Program is one of two new programs the Texas State Soil and Water Conservation Board (TSSWCB) is currently in the process of developing and implementing in response to an appropriation for the 2010-2011 biennium. The Texas Legislature appropriated $15 million dollars to the TSSWCB for the operation, maintenance, repair and rehabilitation of approximately 2,000 federally designed and constructed flood control dams in Texas. In order to deliver these dollars, the TSSWCB is developing one grant program to address operation and maintenance (O&M) needs, and another to address structural repair needs. The separation of the two activities is being done to increase efficiency and flexibility due to the difference in complexity of both the nature of O&M and repair activities, as well as differences in the complexity in the administrative needs. O&M activities are relatively routine and uncomplicated in nature, where structural repair activities are more complicated in that they involve extensive engineering design specifications and more elaborate concurrence requirements from regulatory agencies such as the Texas Commission on Environmental Quality (TCEQ) Dam Safety Program. Local soil and water conservation districts (SWCDs), in partnership with other local governments, are sponsors for all sponsors of the flood control dams, therefore the TSSWCB is developing both programs to provide "pass-through" grants to SWCDs. Rules for the O&M Grant Program were developed during the Summer of 2009, published in the Texas Register for a 30-day public comment period between July 31, 2009 and August 31, 2009, and adopted by the State Board on September 17, 2009. Rules for the Structural Repair Grant Program are currently being developed and will be made available for a public comment period during Fall 2009.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

As this is a newly developing program, no evidence that shows effectiveness or efficiency exists yet. However, because this is a construction-oriented grant program, proof evidencing the effectiveness of this program will be readily available as work progresses.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Nearly 2,000 floodwater retarding structures, or dams, have been built over the last 60 years within the State of Texas. These structures are commonly called flood control dams, watershed structures, or flood prevention or "FP" sites. For the sake of understanding the scale of these dams, they generally appear as a series of small lakes or very large stock ponds from the air. The primary purpose of the structures is to protect lives and property by reducing the velocity and volume of floodwaters, and thereby releasing flows at a safer rate.

They are earthen dams that exist on private property, and were designed and constructed by the USDA Natural Resources Conservation Service (NRCS). They were built with the understanding that the private property owner would provide the land, the federal government would provide the technical design expertise and the funding to construct them, and then units of local government would be responsible for maintaining them into the future.

The units of local government that are responsible for the O&M of these dams are referred to as "local sponsors." Local sponsors always include the SWCD, and one or more others such as a municipality, county, or water control and improvement district (WCID). In order for the NRCS to agree to design and construct the dams, they required that a group of co-sponsors enter into an "O&M Agreement" for each series of dams. SWCDs were included in the agreements due to their longstanding role as a local sponsor and partner for virtually all NRCS programs associated with soil and water conservation. However, Texas SWCDs are not provided the authority by the Legislature to levy taxes, therefore other "co-sponsors" such as the others mentioned above were always included in these agreements prior to design and construction. This was to ensure that the ability to generate at least some funding for O&M activities existed.

Over the years, some of the non-SWCD co-sponsors have done an outstanding job at providing minimum levels of O&M funding for these dams. Unfortunately, there are a lot of cases where the "taxing" partner has not provided adequate funding, or has been unable to generate adequate funding due to their local tax-base or other hardship conditions. In any event, the combination of the (1) number of these dams, the (2) increase in population and development projects below their spillways, and the (3) simple fact that as time goes by, various mechanical and structural components to these dams simply wear out, has lead to a significant lack of maintenance.

Local SWCDs approached the TSSWCB about the growing maintenance issue, as well as the growing need for repairs on certain dams, and requested the TSSWCB include an exceptional budget request for funding to conduct operation, maintenance, repair, and rehabilitation on flood control dams. The

TSSWCB included a request for funding to conduct this work, and it was appropriated for the 2010-2011 biennium by the Legislature.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

It is anticipated that the Flood Control Dam Structural Repair Grant Program will only directly affect local SWCDs that apply for grant funds under the developing program. Indirectly, many other local governmental units may be affected if they choose to provide the required match funding that is expected to be a component of the program. The workload of local, state, and federal agencies that have responsibilities regarding flood control dams may be affected. The entire state will realize benefits due to the repair and continued functioning of repaired flood control dams.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is in the process of being developed, but it expected to take the form of a straightforward grant program which should include an application process, an evaluation of applications against an approved set of ranking criteria, a contracting phase, a reimbursement phase, and an inspection phase prior to payments being made. From a technical perspective, the TSSWCB currently anticipates contracting the engineering services of the NRCS or another qualified private company. Currently the TSSWCB foresees several routes an individual repair contract could take. In some cases, all the funding (contracting, engineering, and construction) may be passed through a local SWCD. Other cases may be characterized by only construction funding being passed through a local SWCD to construction contractors, with engineering and inspection services being provided through a separately contracted entity retained by the TSSWCB. The TSSWCB currently plans to propose rules for the program that allow for enough flexibility to use the best process on a case-by-case basis.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the Flood Control Dam Structural Repair Grant Program, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

A.1.1 Strategy: PROGRAM MANAGEMENT AND ASSISTANCE
Program Expertise, Financial and Conservation Implementation Assistance

FY2010/2011 General Revenue: $23,562,622*

*Riders:
8. Appropriation: Flood Control Dam Operation, Maintenance, and Structural Repair. Included in the amounts appropriated above in Strategy A.1.1, Program Management and

Assistance, is $7,500,000 in each fiscal year out of the General Revenue Fund to provide funding for operations and maintenance, structural repair, and rehabilitation needs to flood control dams.

Out of Strategy A.1.1, the TSSWCB will use $9,282,000 out of the available $15,000,000 for the Control Dam Structural Repair Grant Program for the 2010-2011 biennium. Other programs funded with monies from Strategy A.1.1 include the Conservation Implementation Assistance Grant Program, Conservation Assistance Matching Funds Program, Flood Control Operation and Maintenance Grant Program, Public Information and Education Program, and SWCD Director Mileage and Per Diem reimbursements. Information on those programs is available in their individual program/function descriptions in Section VII of this report.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The NRCS administers Watershed Surveys and Planning, Watershed Protection and Flood Prevention Operations, and Watershed Rehabilitation Programs in the State of Texas. These programs, when adequate funding exists, carry out assessment, engineering design, and construction for many activities associated with flood control dams. Repair activities are conducted through the Watershed Protection and Flood Prevention Operations and Watershed Rehabilitation Programs when funding is provided to the NRCS through Congress. In recent years, very little funding has been appropriated for these programs, although the Federal American Recovery and Reinvestment Act (ARRA) of 2009 (stimulus funds) provided $16,863,000 for construction and $3,480,000 for assessments for Fiscal Year 2009.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

In order to maximize state funding for repairs, the TSSWCB is coordinating closely with the NRCS to ensure that repair activities engaged by the TSSWCB are different than those engaged by the NRCS through federal stimulus funding. NRCS has provided a list of which projects for which they have allocated stimulus funding, so that the TSSWCB may modify its developing repair program to avoid them. Aside from funding coordination, the TSSWCB and NRCS coordinate daily on technical aspects of flood control dam repair and O&M activities to ensure compliance with state and federal requirements.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Very close coordination will be required among the TSSWCB, any local SWCD receiving a grant under this program, and the NRCS. Additionally, the Texas Dam Safety Program of the TCEQ has adopted rules that must be followed with respect to the repair of flood control dams in the state. The TSSWCB has been coordinating the development of this new program through the appropriate staff from each agency to ensure compliance with all applicable laws and rules.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

None to date. Funds for this program are FY 2010 and 2011 appropriations.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Texas Drought Preparedness Council Function
Location/Division	Statewide Resource Management
Contact Name	Richard Egg, Statewide Programs Engineer
Actual Expenditures, FY 2008	$0
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

House Bill 2660 passed by the 76th Texas Legislature in 1999 created the Drought Preparedness Council chaired by the coordinator of the Division of Emergency Management (DEM). The Texas State Soil and Water Conservation Board (TSSWCB) was named as one of the agencies which the Council comprises, therefore the TSSWCB dedicates personnel to participating and assisting the Council with the responsibilities assigned to it by legislation. The Council has developed a comprehensive state drought preparedness plan for mitigating the effects of drought in the state. The Council's responsibilities include reporting drought and water supply conditions, advising the Governor of significant drought conditions, advising regional water planning groups of drought-related issues, ensuring effective coordination among state, local, and federal agencies in drought response planning, and reporting to the Legislature each odd-numbered year regarding significant drought conditions in the state.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Council develops and updates the State Drought Preparedness Plan, and submits all annual and biennial reports as required by its enabling legislation. The Council also submits a monthly situation report to the Governor describing the state of drought in Texas, which results in policy making decisions and program directives from participating agencies as needed.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

NA

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Council provides information to the Governor's office and the Legislature. It also provides information to local governments to aid and drought planning.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The council is administered by the DEM. The TSSWCB is a member that participates in Council meetings and contributes to reports generated by the Council, and will make modifications to any agency programs as necessary based on pertinent information when appropriate.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

No funding is appropriated to the TSSWCB for its role as a member of the Council.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

None.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Council comprises fourteen state agency members and includes federal and other interest group participants and normally meets monthly to coordinate and report on drought conditions and activities in the state.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

The Council is in general a monitoring, coordinating, and reporting group whose reports and information is made available to state agencies so that programs and assistance can be made available when needed.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The programs administered by the TSSWCB which can be utilized to mitigate drought conditions are not regulatory in nature.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Prescribed Burning Board Function
Location/Division	Harlingen Regional Office [Regional Office Coordinator, located in Harlingen serves as the TSSWCB Employee responsible for this function]
Contact Name	Andy Garza, Regional Office Coordinator
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Prescribed Burning Board was established within the Texas Department of Agriculture (TDA) by House Bill 2599 (76th Regular Session) to establish standards for prescribed burning, develop a comprehensive training curriculum for prescribed burn managers, establish standards for certification, recertification, and training for prescribed burn managers, establish minimum education and professional requirements for instructors for the approved curriculum, and establish minimum insurance requirements for certified prescribed burn managers.

House Bill 2599 required that an employee of the Texas State Soil and Water Conservation Board (TSSWCB) be a member, as well as employees of the Texas Forest Service (TFS), Parks and Wildlife Department (TPWD), Texas Natural Resource Conservation Commission (TNRCC), Texas Agricultural Extension Service, Texas Agricultural Experiment Station, Texas Tech University Range and Wildlife Department, and Department of Agriculture (TDA). Five other persons who are (1) owners of agricultural land, as that term is defined by Section 153.081, (2) self-employed or employed by a person other than a governmental entity, and (3) appointed by the commissioner of agriculture are included as well.

The Executive Director of the TSSWCB has designated one employee of the agency to serve as a member of the Prescribed Burning Board. This employee provides information to the Prescribed Burning Board on TSSWCB programs as they relate to the agency's programs and functions, and disseminates the Prescribed Burning Boards information to the TSSWCB and local soil and water conservation districts (SWCDs) as needed.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

NA to TSSWCB programs or functions.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The TSSWCB has assigned an employee to serve on the Prescribed Burning Board since the Board's creation.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

NA to TSSWCB programs or functions.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The TSSWCB has assigned an employee to serve on the Prescribed Burning Board since the Board's creation.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

No funding is provided to the TSSWCB for participating on the Prescribed Burning Board.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

NA to TSSWCB programs or functions.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

NA to TSSWCB.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA to TSSWCB programs or functions.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA to TSSWCB programs or functions.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Task Force on Economic Growth and Endangered Species Function
Location/Division	Special Projects
Contact Name	Mel Davis
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

Senate Bill 2534, 81st Regular Session, created the Task Force on Economic Growth and Endangered Species to provide state agencies with a mechanism to provide policy and technical assistance regarding compliance with endangered species laws and regulations to local and regional governmental entities and their communities engaged in economic development activities so that compliance with endangered species laws and regulations is as effective and cost efficient as possible. This legislation named the executive director of the Texas State Soil and Water Conservation Board (TSSWCB) as a member of the Task Force, along with the comptroller of public account, the commissioner of agriculture (TDA), the executive director of the Parks and Wildlife Department (TPWD), and the executive director of the Texas Department of Transportation (TXDOT). The comptroller is the presiding officer of the task force.

The Task Force is charged with assessing the economic impact on the state of federal, state, or local regulations relating to endangered species, and assisting landowners and other persons in this state to identify, evaluate, and implement cost-efficient strategies for mitigation of impacts to and recovery of endangered species that will promote economic growth and development in the state. The Task Force is also charged with facilitating state and local governmental efforts to effectively implement endangered species regulations in a cost-efficient manner. The Task Force is authorized, if requested by a local government or state official, to review state and local governmental efforts to address endangered species issues and provide recommendations to make those efforts more cost effective. The Task Force is required to consider all available options as part of its recommendations where the options considered include fee simple acquisition of land, conservation easements, use of land owned by local governments or this state, recovery crediting, and all relevant federal programs.

As a member of the Task Force, the TSSWCB will facilitate the exchange of information between local soil and water conservation district (SWCD) directors, landowners participating in SWCD programs, and the Task Force. If soil and water resources are a relevant factor in matters addressed by the Task Force, the TSSWCB will coordinate applicable programs as needed.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

NA to TSSWCB.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

None.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

NA to TSSWCB.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

NA to TSSWCB.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

No funding is provided to the TSSWCB for participating on the Task Force.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

None.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

As a member of the Task Force, the TSSWCB will facilitate the exchange of information between SWCD directors, landowners participating in SWCD programs, and the Task Force. If soil and water resources are a relevant factor in matters addressed by the Task Force, the TSSWCB will coordinate applicable programs as needed.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA to TSSWCB.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA to TSSWCB.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Texas Nonpoint Source (NPS) Management Program
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer T.J. Helton, Statewide Nonpoint Source Program Coordinator
Actual Expenditures, FY 2008	NA [Funding for activities related to WPP development and implementation are made possible through the Nonpoint Source Grant Program; see that program's individual program/function description]
Number of FTEs as of August 31, 2008	NA [FTEs conducting work toward the development and implementation of WPPs are included in the program description for the Nonpoint Source Grant Program]

B. What is the objective of this program or function? Describe the major activities performed under this program.

The federal Clean Water Act (CWA) requires states to develop a program to protect the quality of water resources from the adverse effects of nonpoint source (NPS) water pollution [CWA, Sec. 319(a)(1)]. If a state fails to develop and acquire approval of a statewide Non Point Source (NPS) program by the U.S. Environmental Protection Agency (EPA), the EPA is required by federal law to develop a state program in which the state has little or no control over the program's policy or financing [CWA, Sec. 319(d)(3)]. Because the Legislature has designated the Texas State Soil and Water Conservation Board (TSSWCB) as the lead state agency for activity relating to abating agricultural and silvicultural NPS pollution, the agency is involved in active participation and program management of numerous water quality functions [Sec. 201.026, Agriculture Code]. The *Texas NPS Management Program* is an omnibus program title and document that encompasses and directs many other function-specific subprograms. The Texas NPS Management Program serves as the State's official roadmap for addressing NPS pollution. The program publication is revised every five years and requires approval by the State Board of the TSSWCB and the Commissioners of the Texas Commission on Environmental Quality (TCEQ). Once each agency has approved the Texas NPS Management Program, the program document is provided to the Governor who then submits the document on behalf of the State to the EPA for approval. The most recent revision was submitted to the EPA by the Governor in December 2005. This document is included as an attachment (Other) to this SER.

The Texas NPS Management Program is jointly administered by the TSSWCB and TCEQ. As a result of agricultural and silvicultural NPS pollution being excluded from regulation by permit in the CWA by Congress, the TSSWCB administers the portion of the overall program and subprograms that pertain to agriculture and silviculture, while the TCEQ administers the remaining urban activities in accordance with a memorandum of understanding (MOU) [30 TAC 7.102] and a separate memorandum of agreement (MOA) (these agreements are available in the Attachments Section of this SER under "other"). The MOU sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs, while the MOA is a more specific document that addresses total maximum daily loads (TMDLs), TMDL implementation plans (I-Plans), and watershed protection plans (WPPs).

The Texas NPS Management Program utilizes baseline water quality management programs and regulatory, voluntary, financial, and technical assistance approaches to achieve a balanced program. NPS pollution is managed through assessment, planning, implementation, and education. The TCEQ and TSSWCB have established goals and objectives for guiding and tracking the progress of NPS management in Texas. Success in achieving the goals and objectives are reported annually in the NPS Annual Report, which is submitted to EPA in accordance with the CWA.

Implementation of the Texas NPS Management Program involves partnerships among many organizations. With the extent and variety of NPS issues across Texas, cooperation across political boundaries is essential. Many local, regional, state, and federal agencies play an integral part in managing NPS pollution, especially at the watershed level. They provide information about local concerns and infrastructure and build support for the kind of pollution controls that are necessary to prevent and reduce NPS pollution. Soil and water conservation districts (SWCDs) are vital partners in working with landowners to implement best management practices (BMPs) that prevent and abate agricultural and silvicultural NPS water pollution. By establishing coordinated frameworks to share information and resources, the State can more effectively focus its water quality protection efforts.

Programs and functions of the agency that fit within the overall Texas NPS Management Program include:

- NPS Grant Program
- Watershed Protection Plan (WPP) Program
- Total Maximum Daily Load (TMDL) Program
- Environmental Data Quality Management Function
- Water Quality Management Plan (WQMP) Program
- Poultry WQMP Program
- Water Quality Complaint Resolution Function
- Coastal NPS Pollution Control Program
- Costal Coordination Council Function
- Texas Groundwater Protection Committee Function

More specific information regarding the above major programs and functions within the overall Texas NPS Management Program is provided within the individual program/function description within this section of the SER.

There are a handful of other functions which are carried out by TSSWCB staff under the auspices of the TSSWCB's agricultural and silvicultural NPS authority:

The Texas Clean Rivers Program (CRP) is a state fee–funded program for water quality monitoring, assessment, and public outreach administered by the TCEQ. CRP is a collaboration of 15 partner agencies who conduct water quality monitoring and assessments in the 23 river and coastal basins in Texas. Each river or coastal basin is assigned to one of the designated CRP partner agencies. Each CRP partner agency has an established steering committee to set monitoring and assessment priorities within its basin. These committees bring together the diverse interests in each basin and are designed to allow local concerns to be addressed through regional solutions. The Texas Water Code requires the TCEQ and CRP partner agencies to coordinate monitoring and assessment activities with local SWCDs through the TSSWCB. The data generated by CRP partner agencies is used to identify significant long-term water quality trends and characterize water quality conditions. Each CRP partner agency develops and publishes an annual Basin Highlights Report and a five-year Basin Summary Report. The TCEQ also uses CRP-generated data in the biennial assessment conducted for the Texas Water Quality Inventory and 303(d) List. More information is available at http://www.tceq.state.tx.us/nav/eq/texcleanriver.html. Data collected through CRP drives priority setting for the Texas NPS Management Program.

CWA §§305(b) and 303(d) require the State the develop and submit the *Texas Water Quality Inventory and 303(d) List* to EPA. The *Texas Water Quality Inventory* summarizes the status of the State's surface waters, including concerns for public health, fitness for use by aquatic species and other wildlife, and specific pollutants and their possible sources. The *303(d) List* identifies waterbodies not attaining water quality standards (i.e., impaired). The TCEQ is the lead agency in the state for overall water quality management and is responsible for the development of the Inventory and List and for their submittal to EPA. The TCEQ has assembled an advisory group to make recommendations on revisions to the *Guidance for Assessing and Reporting Surface Water Quality in Texas*. The *Guidance* is used to evaluate data and information for development of the Texas Surface Water Quality Inventory and 303(d) List. TSSWCB serves on this advisory group. Further, to finalize the Inventory and List, the TCEQ uses a defined process for receiving public comment. The TSSWCB provides comment to TCEQ on the draft *Inventory and List* to ensure that probable causes and sources of identified water quality impairments and concerns accurately characterize the potential for contribution from agricultural and silvicultural NPS pollution. More information on the *2008 Texas Water Quality Inventory and 303(d) List* is available at http://www.tceq.state.tx.us/compliance/monitoring/water/quality/data/08twqi/twqi08.html.

The Texas Surface Water Quality Standards establish explicit goals for the quality of streams, lakes, and bays throughout the state. The Standards are developed to maintain the quality of surface waters in Texas so that it supports public health and enjoyment and protects aquatic life, consistent with the sustainable economic development of the state. Water quality standards identify appropriate uses for the state's surface waters, including aquatic life, contact recreation, and source of public water supply (or drinking water). The Texas Surface Water Quality Standards are codified in Title 30, Chapter 307 of the Texas Administrative Code and are written by the TCEQ under the authority of the CWA and the Texas Water Code. The process of reviewing and revising the standards, generally triennially, is a joint process with the TCEQ, EPA, the general public, other governmental agencies, industries, municipalities, environmental groups, and others. The public and affected state agencies participate in the development and implementation of the Standards through the TCEQ's Surface Water Quality Standards Advisory Work Group. The TSSWCB serves on this Advisory Work Group in order to ensure that the water quality standards are appropriate, credible, and realistic for specific waterbodies. Established Standards drive priority setting for the Texas NPS Management Program. More information on this Standards review process is available at http://www.tceq.state.tx.us/permitting/water_quality/stakeholders/swqsawg.html.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Progress in implementing the Texas NPS Management Program is documented and tracked through several mechanisms. One reporting mechanism that is required to be completed each year to ensure continued federal funding from EPA is an annual report. The report highlights the State's efforts to collect data, assess water quality, implement projects that reduce or prevent NPS pollution, and educate and involve the public to improve and maintain the quality of water resources for current and future generations of Texans.

The vast majority of water quality impairments on the 303(d) List are due to a diverse array of nonpoint sources and, as such, restoration will take significant, long-term efforts from all sectors (agriculture, industry, municipal, etc.). There is difficulty in achieving water quality restoration in general due to the expected lag time between implementation of best management practices (BMPs) and observation of expectant improvements in water quality due to factors, such as spatial and temporal variability in weather and the implementation of BMPs. These factors can confound detection of trends, particularly when dealing with relatively short periods of time and the diffuse nature of NPS water pollution. Additionally the Texas Water Quality Inventory and 303(d) List, the mechanism used to verify water quality restoration (and ultimately the effectiveness and efficiency of the overall Texas NPS Management Program as a whole) is updated biennially (consistent with the federal CWA). As the Texas NPS Management Program continues to implement water quality improvement strategies, there will be a better ability to evaluate the effectiveness and efficiency of the overall Texas NPS Management Program as a whole through the verification of water quality restoration and ultimate delisting from the 303(d) List.

Specific Legislative Performance Measures are described in section 2 under the Texas NPS Management of the SER.

All other evidence that shows effectiveness and efficiency of the Texas NPS Management Program is included in the individual program descriptions for the list provided in Question B; no other state or federal performance measures are directly associated with the overall Texas NPS Management Program.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution. Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972. As amended in 1977, the law became commonly known as the CWA. Among other things, the 1977 amendments recognized the need for planning to address the critical problems posed by nonpoint source pollution.

In 1987, Congress amended the CWA to establish the Section 319 Nonpoint Source Management Program because it recognized the need for greater federal leadership to help focus State and local nonpoint source efforts. Section 319 required each state to develop and seek EPA approval of a state NPS program. Once EPA approval was attained, states, territories, and indian tribes became entitled to receive grant money to support a wide variety of activities including technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific nonpoint source implementation projects.

In 1993, the Texas Legislature passed Senate Bill 503 establishing the TSSWCB as the lead state agency for activity relating to abating agricultural and silvicultural NPS pollution. In addition to this designation, Senate Bill 503 charged the TSSWCB with:

- Planning, implementing, and managing programs and practices for abating agricultural and silvicultural nonpoint source pollution
- Setting priorities among voluntary efforts to reduce nonpoint source pollution and promoting those efforts in a manner consistent with the priorities
- Assisting landowners to prevent regulatory enforcement actions related to nonpoint source pollution
- Providing to the agricultural community information regarding the jurisdictions of TSSWCB and the TCEQ related to nonpoint source pollution
- Representing the state before the federal EPA or other federal agencies on a matter relating to agricultural or silvicultural nonpoint source pollution
- Establishing a water quality management plan certification program that provides, through local soil and water conservation districts, for the development, supervision, and monitoring of individual water quality management plans for agricultural and silvicultural lands
- Establishing a water quality complaint – resolution process with the TCEQ for complaints on agricultural or silvicultural lands

Senate Bill 503 also resulted in the TSSWCB being named as a permanent member of the Coastal Coordination Council [described in Section 7] and the Texas Groundwater Protection Committee [described in Section 7], and required that other state agencies with responsibility for abating agricultural and silvicultural nonpoint source pollution coordinate any abatement programs and activities with the TSSWCB.

Upon passage of Senate Bill 503, the TSSWCB and the TCEQ began collaborating on the development and implementation of the Texas NPS Management Program, and have subsequently administered the program jointly.

The Water Quality Management Plan (WQMP) Program is administered by the TSSWCB through SWCDs for the purpose of providing a voluntary, incentive-based, natural resource conservation planning service to agricultural producers and other rural landowners who choose to implement best management practices (BMPs) that prevent, abate, and/or manage NPS pollution. The WQMP Program is the state's primary BMP implementation program for agricultural and silvicultural lands as specified in the Texas NPS Management Program. Significant historical developments in the WQMP Program, and the Poultry WQMP Program, are described in Section 7.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Implementation of the Texas NPS Management Program involves partnerships among many organizations. Nonpoint source pollution occurs to an extent anywhere precipitation occurs. The vast majority of water quality impairments on the 303(d) List are likely due to a diverse array of nonpoint sources and, as such, restoration will take significant efforts from all sectors (agriculture, industry, municipal, etc.).

With the extent and variety of NPS issues across Texas, cooperation across political boundaries is essential. Many local, regional, state, and federal agencies play an integral part in managing NPS pollution, especially at the watershed level administer voluntary incentive-driven programs to encourage the installation of management practices that prevent and abate them. They provide information about local concerns and infrastructure and build support for the kind of pollution controls that are necessary to prevent and reduce NPS pollution.

SWCDs are vital partners in working with landowners to implement BMPs that prevent and abate agricultural and silvicultural NPS water pollution. Under its enabling legislation, the TSSWCB is charged with providing technical and financial assistance to agricultural producers and rural landowners who choose to participate in NPS pollution abatement activities. By establishing coordinated frameworks to share information and resources, the State can more effectively focus its water quality protection efforts.

A coalition of government agencies and citizens is necessary to develop and implement water quality protection and restoration strategies. Public participation in watershed restoration activities provides the following benefits:

- improves the quality and increases the quantity of information used as the basis for plans,
- promotes government accountability,
- ensures that state government considers the local perspective in its decisions,
- helps stakeholders gain insight into the nature of water quality problems and alternate solutions in their communities,
- leads to voluntary individual actions to curb pollution, and
- local ownership of water quality.

Stakeholders include all individuals or organizations in the watershed who have one or more of these attributes:

- are significant contributors of pollutant loadings or other impacts to water quality;
- are significantly affected by water quality problems;
- are directly affected by project outcomes or decisions;
- may be required to undertake control measures because of statutory or regulatory requirements;
- have statutory or regulatory responsibilities closely linked to water quality—for example, flood control;
- can help develop or implement actions to remedy water quality problems;
- live in the watershed or use the water resource.

It is the policy of the TSSWCB to always engage affected parties through an open and transparent stakeholder process to implement the Texas NPS Management Program. Coordination of stakeholders takes place at three levels:

- statewide for agencies and organizations that conduct water quality management activities across the entire state, to target and synchronize their efforts.
- regionally to assess conditions within a basin and establish basin-specific goals and priorities
- locally to develop watershed restoration activities that have local support and input.

Although not an exhaustive list of possible stakeholders, these categories give some examples of the kinds of groups and people who may become involved in protecting and restoring water resources:

- Public–individuals; civic groups such as those representing environmental, consumer, recreational, and community interests; schools, universities, and private landowners.
- Agriculture and aquaculture – corporate and individual farmers, ranchers, and producers; subsistence and commercial harvesters of fish and shellfish; agricultural groups and organizations.
- Business –commercial, residential, and industrial firms; utilities, business groups, and trade associations.
- Government–city, county, regional, state, federal, and international government agencies, tribes, utility districts, and river authorities.

The TSSWCB implements the Texas NPS Management Program through numerous mechanisms including the WQMP Program, which is complimented by the NPS Grant Program providing state and federal grants for research, demonstration, education, and financial assistance dollars for implementation. The only pertinent qualifications of WQMP Program participants are that they possess or have some control over the resource (property) which is the conveyance of the NPS pollution.

Since 1993, there have been more than 14,000 WQMPs certified on private property, and dozens of individual private and governmental entities have provided a service or contributed to NPS projects. Other entities that are affected by the Texas NPS Management Program, insofar as they become voluntary partners in various NPS initiatives, include universities, other state and federal agencies, river authorities, and local governmental bodies.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Texas NPS Management Program is jointly administered by the TSSWCB and TCEQ. Very close coordination is performed to establish program goals and objectives, but then each agency proceeds independently toward project development and implementation. The Texas NPS Management Program is revised on a five-year cycle that requires approval by the State Board and the Commissioners of the TCEQ. Once each agency has approved the Texas NPS Management Program, the program document is provided to the Governor who then submits the document on behalf of the State to the EPA for approval.

SRM staff are based out of the TSSWCB HQ Office in Temple, with the exception of one FTE placed in the TSSWCB Wharton Regional Office. SRM staff is generally responsible for the overall integration of TSSWCB Programs and functions that fall within the overall Texas NPS Management Program. SRM staff ensure the coordination of the Texas NPS Management Program with other agencies' programs. Finally, SRM staff ensure activities of the Texas NPS Management Program address State and federal water quality priorities. More specific information on how the SRM group administers various programs and functions within the overall Texas NPS Management Program is provided in Section 7 of the SER.

More specific information on how Regional Offices administer the WQMP Program and the Poultry WQMP Program within the overall Texas NPS Management Program is provided in Section 7 of the SER.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Texas Legislature appropriates general revenue and the Congress appropriates federal funds (through the EPA) to the TSSWCB to administer the agricultural and silvicultural components to the Texas NPS Management Program in two funding strategies:

B. Goal: NONPOINT SOURCE POLLUTION ABATEMENT
Administer a Program for Abatement of Agricultural Nonpoint Source Pollution

B.1.1 Strategy: STATEWIDE MANAGEMENT PLAN
Implement a Statewide Management Plan for Controlling NPS Pollution

B.1.2 Strategy: POLLUTION ABATEMENT PLAN
Pollution Abatement Plan for Problem Agricultural Areas

Funding amounts used to administer the Texas Nonpoint Source Management Program are included within the individual program/function descriptions for the subprograms listed in Item B.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The Texas NPS Management Program is the state's statutorily required and overarching program for all NPS pollution related activities, and it serves as the guide that directs *all* other activities by any agency. Due to the distinct statutory separation of responsibilities established by the Legislature regarding NPS pollution, which is based on a federal separation provided for in the CWA, the Texas NPS Management Program is jointly administered by the TSSWCB and TCEQ. Very close coordination is performed to establish program goals and objectives, but then each agency proceeds independently toward project development and implementation. By statute, the TSSWCB addresses agricultural and silvicultural NPS activities and the TCEQ addresses urban and all other sources.

More specific information on any programs that provide similar functions to the various programs and functions of the agency that fit within the overall Texas NPS Management Program is provided in each program or function's Section 7 of the SER.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TSSWCB and TCEQ have entered into a memorandum of understanding (MOU) [30 TAC 7.102] and a separate memorandum of agreement (MOA); these document are included the "other" category within the Attachments Section of this SER.. The MOU sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution

programs, while the MOA is a more specific document that addresses total maximum daily loads (TMDLs), TMDL implementation plans (I-Plans), and watershed protection plans (WPPs).

In addition to joint meetings generally held once per biennium between the State Board of the TSSWCB and the Commissioners of the TCEQ, the appropriate staff of the TSSWCB, TCEQ, and the EPA meet frequently to ensure the Texas NPS Management Program is consistent with federal requirements. Additionally, TSSWCB and TCEQ management meet regularly to coordinate program policy and direction and to discuss progress on individual NPS projects and initiatives.

The Texas NPS Management Program is the state's statutorily required and overarching program for all NPS pollution related activities, and it serves as the guide that directs *all* other activities by any agency. As such, any entity or program with NPS activities must coordinate with TSSWCB and TCEQ.

Further, Chapter 201 of the Texas Agriculture Code Sec. 26(e) specifically states "Other state agencies with responsibility for abating agricultural and silvicultural nonpoint source pollution shall coordinate any abatement programs and activities with the state board."

More specific information how the various programs and functions of the agency that fit within the overall Texas NPS Management Program coordinate activities with similar programs is provided in each program or function's Section 7 of the SER.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

For the Texas NPS Management Program to be effective on both a statewide and watershed level, the TSSWCB must work closely with other state, regional and local organizations to optimize the use of all available resources.

The TCEQ is the lead agency in the state for overall water quality management, their responsibilities associated with nonpoint source (NPS) water quality pollution must be restricted to non-agricultural and non-silvicultural sources. The TSSWCB was designated by the Legislature as the lead agency pertaining to agricultural and silvicultural NPS pollution. The MOU and MOA that outline the coordination between TCEQ and TSSWCB is discussed in Question I above.

The TSSWCB interacts with the state's 216 individual local SWCDs on a regular basis on a myriad of different and ongoing NPS initiatives. As described in Section 2 of this SER, SWCDs are critical to implementing the Texas NPS Management Program as affected stakeholders.

Due to the nature of NPS pollution, the TSSWCB also regularly engages in mutual efforts with the United States Department of Agriculture – Natural Resources Conservation Service (NRCS). The TSSWCB, SWCDs, and NRCS have several longstanding memorandums of agreement in place to administer a "conservation partnership." All three entities have the voluntary conservation of soil and water resources as part of their core mission. The presence of the partnership has enabled the State to maintain a fairly small state conservation agency staff when compared to many other state agencies that do not have a federal counterpart with common goals and objectives. NRCS provides significant amounts of financial assistance to farmers and ranchers through federal Farm Bill programs such as the Environmental Quality Incentives Program (EQIP), where local SWCDs help them establish local resource conservation priorities.

EPA works to develop and enforce regulations that implement environmental laws enacted by Congress. EPA is responsible for researching and setting national standards for a variety of environmental programs, and delegates to states and tribes the responsibility for issuing permits and for monitoring and enforcing compliance. As previously described above, EPA must approve the Texas NPS Management Program.

The U.S. Geological Survey (USGS) has the principal responsibility within the Federal Government to provide the hydrologic information and understanding needed by others to achieve the best use and management of the Nation's water resources. Through the National Water Quality Assessment Program (NAWQA), USGS scientists collect and interpret data about water chemistry, hydrology, land use, stream habitat, and aquatic life. The NAWQA Program is a primary source for long-term, nationwide information on the quality of streams, groundwater, and aquatic ecosystems. This information supports national, regional, State, and local decision making and policy formation for water-quality management. The USGS data is frequently used to help prioritize activities of the Texas NPS Management Program.

The Agricultural Research Service (ARS) is the principal in-house research agency of the U.S. Department of Agriculture (USDA). ARS conducts research to develop and transfer solutions to agricultural problems of high national priority. Two of the twenty-two ARS National Programs, Water Quality and Management and Soil Resource Management, are strongly committed to applied nonpoint source pollution research as part of their mission to increase understanding and develop solutions to protect the Nation's soil and water resources. In Texas, ARS is conducting ongoing research on nonpoint source related issues such as: land application of municipal and agricultural wastes; improved management of soil, water, nutrients, and chemicals in agricultural production systems; and enhanced simulation tools for water quality, hydrology, and crop growth. ARS research, conducted by laboratories throughout the state, is often carried out in cooperation with universities, state research and extension centers, and private organizations. Research conducted by USDA-ARS is paramount to identifying only the most appropriate and applicable BMPs to implement on agricultural lands to implement the Texas NPS Management Program.

The TSSWCB also utilizes the resources and expertise of CRP Partners (Texas river authorities and municipal water districts) for activities such as stakeholder group development and coordination and water quality monitoring. Through CRP these entities collect the bulk of the data used in the 303(d) and 305(b) assessment report which drives priority setting for the Texas NPS Management Program.

The Texas Department of Agriculture (TDA) is a state agency that is charged with addressing broad scale agricultural issues such as rural economic development, food and nutrition programs, marketing and promoting Texas agricultural products around the globe, regulating pesticide usage, and other regulatory programs that pertain to agriculture. TDA is a critical partner in the Texas NPS Management Program and they help provide leadership on individual project efforts by engaging stakeholders.

The land grant university system was established nationally to focus on the teaching of agriculture, science and engineering as a response to the industrial revolution. In Texas the various agencies and institutes of The Texas A&M University System, such as Texas AgriLife Extension Service, Texas AgriLife Research, Texas Water Resources Institute, Texas Institute for Applied Environmental Research and the Texas Forest Service, share common agricultural goals and natural resource objectives as the TSSWCB. AgriLife Extension and AgriLife Research focus on the education, demonstration, and research aspects of natural resource conservation, while TSSWCB and SWCDs focus on delivering these technologies and research advancements brought about by those entities to the ground through technical and financial assistance. Likewise, while the Texas Forest Service (TFS) may be responsible for the direction of all forest interests within the state, the TSSWCB is designated as the responsible entity for

addressing the NPS pollution aspects of those interests through the Texas NPS Management Program. The TSSWCB utilizes the relationships the TFS has with forest landowners and operators to implement the silvicultural components of the Texas NPS Management Program. The Texas Institute for Applied Environmental Research at Tarleton State University brings together the distinct concerns of industries and environmentalists to develop effective public policies and cooperative, science-based solutions.

The Texas Parks and Wildlife Department (TPWD) is responsible for the development of water-based recreational activities and the protection of fish and wildlife resources. TPWD is a partner in the Texas NPS Management Program and they help provide leadership on individual project efforts by engaging stakeholders.

The Texas NPS Management Program document, attached to this SER, provides a more detailed and more exhaustive list of local, regional, or federal units of government and their relationship to TSSWCB in implementing the Texas NPS Management Program.

All of the agencies mentioned above, and others, share responsibilities related to natural resources in Texas. These agencies have built formal and informal agreements and partnerships to ensure duplication of efforts does not occur and that financial and personnel resources are maximized to the greatest extent. When additional financial assistance is available at other agencies, many times those agencies contract with the TSSWCB to utilize the agency's delivery system through SWCDs. In every situation, it is a goal of these agencies to maintain a productive working relationship between both their policy making bodies and their respective staffs.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

All contracted expenditures for the Texas NPS Management Program are made through the NPS Grant Program, the Water Quality Management Plan (WQMP) Program, or the Poultry WQMP Program. Information on those program's contracted expenditures is available in each of their individual program descriptions.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Texas NPS Management Program, as required by EPA to be revised every 5 years and approved by the TSSWCB, TCEQ, the Governor, and EPA provides an adequate basis for the Program. From the Governor's December 15, 2005 submission letter to EPA, "The document has been certified by the Attorney General's Office and by the TCEQ's chief legal counsel as to the adequacy of state laws for enacting the measures laid in the plan." Due to the dynamic nature of the program the current public process used to revise the program every five years provides an adequate mechanism to adjust the program's goals and objectives in accordance with statutory priorities.

The TSSWCB's authority for managing programs and practices for the abatement of agricultural and silvicultural NPS pollution as granted by the Legislature through Senate Bill 503 in 1993 provides the legal foundation for reasonably assuring the implementation of the voluntary incentive based WQMP Program in support of the Texas NPS Management Program statewide.

Therefore, no statutory changes are recommended.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The Texas NPS Management Program is not a regulatory program. The Poultry WQMP Program serves as one mechanism under which certain poultry operations can achieve authorization to operate under the federally delegated Texas Pollutant Discharge Elimination System (TPDES) administered by the TCEQ. State statues, TCEQ and TSSWCB rules, as well as the TSSWCB's Poultry WQMP Program have been modified to allow for this mechanism, which is fully explained in the program description for the Poultry WQMP Program.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Complaints associated with the Texas NPS Management Program are addressed through the WQMP Program, the Poultry WQMP Program, and the Water Quality Complaint Resolution Function. Information concerning complaints for those programs is available in their individual program descriptions.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Coastal Coordination Council Function
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer Richard Egg, Statewide Programs Engineer
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Coastal Coordination Council (Council) administers the Coastal Management Program (CMP). The Commissioner of the General Land Office chairs the Council. The other members of the Council are the chair of the Parks and Wildlife Commission (TPWD) or a member of the commission designated by the chair; the chair of the Texas Commission on Environmental Quality (TCEQ) or a member of the commission designated by the chair; a member of the Railroad Commission of Texas (RRC) appointed by that commission; the chair of the Texas Water Development Board (TWDB) or a member of the board designated by the chair; the chair of the Texas Transportation Commission (TXDOT) or a member of the commission designated by the chair; a member of the State Soil and Water Conservation Board (TSSWCB) appointed by that board; the director of the Texas A&M University Sea Grant Program serving as a non-voting member; and four gubernatorial appointees. The appointees are a local elected official who resides in the coastal area, an owner of a business located in the coastal area who resides in the coastal area, a resident from the coastal area, and a representative of agriculture.

The Council is charged with adopting uniform goals and policies to guide decision-making by all entities regulating or managing natural resource use within the Texas coastal area. The Council reviews significant actions taken or authorized by state agencies and subdivisions that may adversely affect coastal natural resources to determine their consistency with the CMP goals and policies. In addition, the Council oversees the CMP Grants Program and the coastal Permit Service Center.

The purpose of the Texas Coastal Management Program (CMP) is to improve the management of the state's coastal natural resource areas (CNRAs) and to ensure the long-term ecological and economic productivity of the coast. The Coastal Coordination Council was established as a forum for coordinating state, federal, and local programs and activities of the Texas coast. The Council is charged with adopting uniform goals and policies to guide decision-making by all entities regulating or managing natural

resource use on the coast. The Council also oversees the CMP grants program and passes over 90 percent of those funds for use in coastal communities.

The CMP supports access to outdoor recreation and the protection of natural habitats and wildlife through:

- the award of federal grant funds to local entities for projects that support access to beaches, bays and other coastal natural resources areas;
- the development and implementation of the Texas Coastal Non-point Source Pollution Control Program (NPS), which supports the protection of natural habitats and wildlife by identifying sources of coastal NPS pollution and developing recommendations for its prevention;
- the review of proposed federal actions that are in or may affect land and water resources in the Texas coastal zone;
- the work of the Permit Service Center's (PSC) in providing direct access to permitting agency staff and offering project specific technical assistance during the pre-application process;
- the Beach Watch program which provides Texans with baseline data on the health of the Gulf waters by analyzing water samples.

The CMP was designed to meet requirements for participation in the federal coastal zone management program. Once a state's program is federally approved, the state receives federal coastal grant funding and may require federal activities in the coastal zone to comply with the program's policies through a process known as consistency review.

The Texas Coastal Management Program (TCMP) is based primarily on the Coastal Coordination Act of 1991 (33 TEX. NAT. RES. CODE ANN. §201 et. seq.) as amended by HB 3226 (1995), which calls for the development of a comprehensive coastal program based on existing statutes and regulations.

Major activities performed under this function are participate in CCC meetings, participate in CMP grant program review activities, development and implementation of the Texas Coastal Nonpoint Source Pollution Prevention Program agricultural and silvicultural management measures (described under a separate function).

As stated in the *Texas Coastal Management Program, Final Environmental Impact Statement (FEIS), August 1996*:

"Protection of Estuaries and Coastal Water Quality

"…The Texas State Soil and Water Conservation Board (TSSWCB) will implement policies to manage nonpoint-source impacts from agricultural and silvicultural activities (TAC Chapter 201 and TEX. WATER CODE ANN. Chapter 26)." (http://www.glo.state.tx.us/coastal/cmpdoc/part1.html#IA)

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Activities and effectiveness of the CMP is described in a series of annual reports available at:

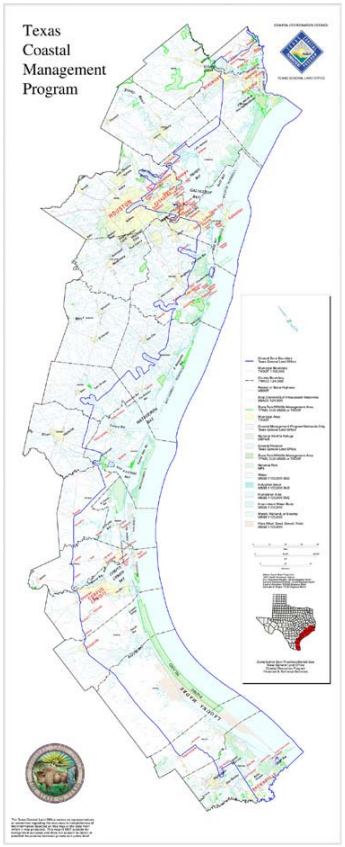
http://www.glo.state.tx.us/coastal/pubs.html#reports

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Texas Coastal Management Program was approved in January 10, 1997.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

In general, this function affects entities (individuals, businesses, local governments, non-governmental organizations) located within the coastal management zone.



F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The state board member from TSSWCB state zone 3 (which includes most of the Texas Coast) is and has traditionally been the board member appointed to serve on the CCC. One TSSWCB staff member has been designated to provide program support.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB does not receive funding for this function.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The CCCs role is to primarily set policy and to coordinate coastal programs and activities. No other programs have been identified that provide similar functions.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The CCCs role is to primarily set policy and to coordinate coastal programs and activities. It does this through council meetings, staff advisory group meetings, a CMP grant review team, and ad hoc work groups of council members, staff, and public.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The TSSWCB's role on the CCC primarily involves administering coastal NPS programs through local Soil and Water Conservation Districts (SWCDs). The TSSWCB may assist local SWCDs and other local units of government periodically with applications for grant funding made available through federal coastal programs.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA to TSSWCB.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA to TSSWCB.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Coastal Nonpoint Source Pollution Control Program
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer Richard Egg, Statewide Programs Engineer
Actual Expenditures, FY 2008	NA [The TSSWCB uses cost-share funding within the WQMP Program to address coastal nonpoint source issues; see the WQMP Program Description for more information]
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Texas Coastal Management Program (CMP) was created to coordinate state, local, and federal programs for the management of Texas coastal resources. The program brings federal Coastal Zone Management Act (CZMA) funds to Texas to implement projects and program activities for a wide variety of purposes. The Coastal Coordination Council (CCC) administers the CMP; the Texas State Soil and Water Conservation Board (TSSWCB) is a statutorily-authorized member of the CCC.

The CCC is charged with adopting uniform goals and policies to guide decision-making by all entities regulating or managing natural resource use within the Texas coastal area. The CCC reviews significant actions taken or authorized by state agencies and subdivisions that may adversely affect coastal natural resources to determine consistency with CMP goals and policies. In addition, the CCC oversees the CMP Grants Program and the Small Business and Individual Permitting Assistance Program.

The Coastal Zone Act Reauthorization Amendments (CZARA), §6217, requires each State with an approved coastal zone management program (CMP) to develop a federally approvable program to control coastal NPS pollution. The CCC appointed a Coastal NPS Pollution Control Program workgroup to develop this document. The National Oceanic and Atmospheric Administration (NOAA) and the United States Environmental Protection Agency (EPA) jointly administer the program at the federal level. In Texas, the TSSWCB and the TCEQ hold primary responsibility for the program's development and implementation.

Section 6217 calls for implementation of management measures (§6217(g)) that will control significant nonpoint sources of pollution to coastal waters. Six source categories are addressed by these measures:

agriculture, forestry, urban and developing areas, marinas, wetland/riparian areas, and hydromodification. States can use voluntary approaches combined with existing state authorities to achieve implementation of management measures. However, if the voluntary mechanisms are not effective, states must have backup enforcement authorities in place to ensure that management measures are implemented.

Texas submitted the *Texas Coastal NPS Pollution Control Program* to EPA and NOAA in December 1998. In July 2003, NOAA and EPA issued conditional approval of the Texas Coastal NPS Program. The agricultural and silvicultural portions of the program were approved without conditions. Texas has five years to meet the five remaining conditions to gain full approval of the program. The NPS Work Group has developed a list of potential options to address the remaining conditions and submitted it to NOAA and EPA in July, 2008 for approval.

The TSSWCB is responsible for implementing the agricultural and silvicultural management measures of the program. Mechanisms the TSSWCB uses to abate agricultural and silvicultural NPS pollution in the coastal zone include: the agency's Water Quality Management Plan Program (WQMP), the CWA §319(h) NPS Grant Program, the Total Maximum Daily Load Program (TMDL), and the Watershed Protection Plan Program (WPP).

Fifteen Soil and Water Conservation Districts (SWCDs) are located in the Coastal Management Zone and work with landowners to implement WQMPs. For over eight years, more than $300,000 in state appropriations has been spent annually in the coastal zone to provide financial assistance through SWCDs to implement about 2,000 WQMPs on agricultural land.

In addition, many of the WPPs and TMDLs that the TSSWCB is engaged in are in the coastal zone. WPPs being developed or implemented in the Coastal Zone include Arroyo Colorado, Bastrop Bayou, Armand Bayou and Dickinson Bayou. TMDLs being developed or implemented in the Coastal Zone include Adams and Cow Bayous, Clear Creek, Copano Bay and Aransas and Mission Rivers, Dickinson Bayou, and Oso Bay and Creek.

Implementation of the silvicultural management measures in the coastal zone is through a CWA §319 grant to the Texas Forest Service (TFS).

For more information on the Texas Coastal Nonpoint Source Pollution Control Program, visit our website at http://www.tsswcb.state.tx.us/coastalnps.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

For over nine years, more than $300,000 in state appropriations has been spent annually in the coastal zone to provide financial assistance through SWCDs to implement about 2,000 WQMPs on agricultural land.

In addition, many of the WPPs and TMDLs that the TSSWCB is engaged in are in the coastal zone. WPPs being developed or implemented in the Coastal Zone include Arroyo Colorado, Bastrop Bayou, Armand Bayou and Dickinson Bayou. TMDLs being developed or implemented in the Coastal Zone include Adams and Cow Bayous, Clear Creek, Copano Bay and Aransas and Mission Rivers, Dickinson Bayou, and Oso Bay and Creek.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Texas Coastal Management Program (CMP) was approved on January 10, 1997.

Texas Coastal Nonpoint Source Pollution Prevention Program

- December 1998 – Submittal of Texas NPS Program
- March 22, 2002 – Texas was provided a draft of Findings and Conditions notice, describing remaining issues
- August 2002 – Interagency work group developed another response document, including additional information, which was submitted to NOAA
- April 7, 2003 – Federal Register notice indicated the intent of NOAA/EPA to approve Texas program with conditions
- July 3, 2003 – EPA and NOAA sent a letter to the General Land Office (GLO) and the Texas Commission on Environmental Quality (TCEQ) approving the NPS program and laying out the outstanding conditions. Findings became effective as of the date of the letter. All agricultural management measures and enforceable policies and mechanisms for the entire 6217 management area were met at the time of this letter Texas was given five years from the approval date to address the conditions outlined in the letter
- May 7, 2005 – The Council sent a response to the EPA and NOAA addressing the outstanding findings and conditions
- October 17, 2005 – EPA and NOAA sent a response letter to the Council denying final approval.
- July 10, 2008—The Council sent another response to EPA and NOAA addressing the outstanding findings and conditions.

Coastal NPS Implementation Grant Funds (Federal) were available to implement this program from 20000 – 2005. In March, 2004, NOAA issued final guidance for the program funds. The guidance no longer allows these funds to be used to implement agricultural best management practices on private lands.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

In general, this function affects entities (individuals, businesses, local governments, non-governmental organizations) located within the coastal management zone. It also affects landowners who implement the agricultural management measures on their land to reduce the potential impact of nonpoint source pollution.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered through the TSSWCB's WQMP program in the coastal zone through our regional offices. It is also administered through the Statewide Resource Management Program which includes the TMDL and WPP programs. The NPS program is implemented by implementing the agricultural and silvicultural management measures on agricultural lands. This is accomplished through the WQMP and Statewide Resource Management (SRM) programs which develop WQMPs which contain agricultural and silvicultural BMPs.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB does not receive explicit funding for this program, however, coast-share funding is allocated to SWCDs in the coastal management zone through the WQMP Program. For over eight years, more than $300,000 in state appropriations has been spent annually in the coastal zone to provide financial assistance through SWCDs to implement about 2,000 WQMPs on agricultural land. The TSSWCB may also use grant funds through the Nonpoint Source Grant Program for activities within the coastal management zone.

From FY2000 – FY2005 federal funds (Coastal NPS Grant Funds) were available to Texas to fund implementation of for the NPS program ($165,000 – $375,000 per year). Several SWCDs applied for and received grants to implement water quality management plans in the coastal zone. However, these funds were not appropriated through the TSSWCB.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

USDA-Natural Resource Conservation Service (NRCS)' EQIP program assists landowners in implementing agricultural best management practices to prevent and remediate NPS pollution in the coastal management zone as well.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

By rule, the TSSWCB prohibits the use of cost-share funding from the WQMP Program from being used on the same acreage for the same best management practices as the NRCS' EQIP Program.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

In general, the TSSWCB works through its regional offices and local SWCDs in developing the WQMPs required to implement the Texas Coastal NPS Pollution Prevention Plan

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

None.

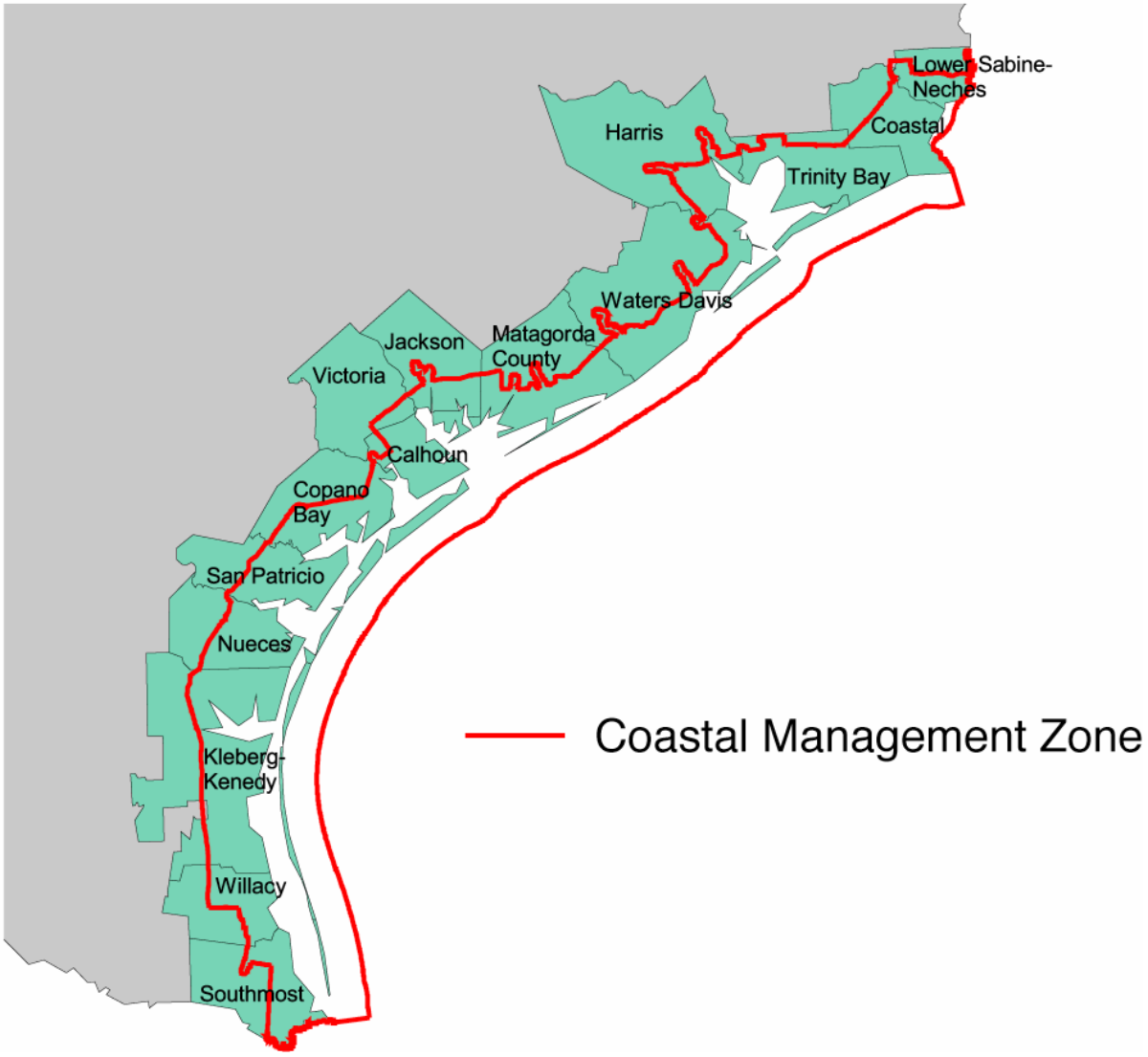
L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

On January 6, 2009, a prominent environmental advocacy group filed suit against the National Oceanic and Atmospheric Administration (NOAA) and the EPA for, among other things: (1) not having the authority to conditionally approve Oregon's Coastal NPS Pollution Control Program; and (2) failing to penalize Oregon for not developing an approved program by withholding Coastal Zone Management Act (CZMA) Section 306 and CWA-Section 319(h) funding. The Coastal Zone Act Reauthorization Amendments (CZARA), §6217, requires each State with an approved coastal zone management program (CMP) to develop a federally approvable program to control coastal NPS pollution. In Texas, the TSSWCB and the TCEQ hold primary responsibility for the program's development and implementation. This case is relevant to the TSSWCB because Texas is also operating its Coastal NPS Pollution Control Program under "conditional" approval from NOAA and EPA. TSSWCB would stand to loose a percentage of its annual CWA-Section 319(h) funding if the ruling in the case is such that NOAA and EPA cannot legally issue conditional approval.

SWCDs in the Coastal Management Zone



N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA to TSSWCB.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA to TSSWCB.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Nonpoint Source Grant Program
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer T.J. Helton, Statewide Nonpoint Source Program Coordinator
Actual Expenditures, FY 2008	$7,804,084.10
Number of FTEs as of August 31, 2008	12.0

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Nonpoint Source Grant Program is administered by the Texas State Soil and Water Conservation Board (TSSWCB) for the purpose of providing funding as grants to cooperating entities for activities that address the goals and objectives stated in the Texas Nonpoint Source (NPS) Management Program (described in Section 7). Agricultural and silvicultural NPS pollution abatement activities that can be funded through the NPS Grant Program include the following: implementation of nine-element watershed protection plans (WPP) (described in Section 7) and the NPS portion of Total Maximum Daily Load (TMDL) (described in Section 7) Implementation Plans (I-Plan), surface water quality monitoring, demonstration of innovative best management practices (BMPs), technical and financial assistance for the development and implementation of water quality management plans (WQMP) (described in Section 7), public outreach/education, development of nine-element WPPs (described in Section 7), and monitoring activities to determine the effectiveness of specific pollution prevention methods (See *NPS Grant Program Active Projects* in the Attachments Section of this SER under "other" for a list of current projects funded through the NPS Grant Program).

The SRM staff in cooperation with Texas Commission on Environmental Quality (TCEQ), Environmental Protection Agency (EPA), and other agencies identify priority areas and activities for the years funding cycle based on the Texas NPS Management Program and the most recently approved *Texas Water Quality Inventory and 303(d) List*. These priorities are identified in a request for proposal (RFP) that is published in the Texas Register and sent to all interested entities. The TSSWCB only releases a portion of the NPS Grant Program funds thought the Request For Proposal (RFP) process. Entities submit proposals to TSSWCB for funding consideration through the RFP. The proposals are reviewed, ranked and scored by Statewide Resource Management (SRM) staff based on the published ranking criteria and selection of proposals for funding is determined. The funding not released through the RFP is directly

awarded to entities to ensure the highest priority activities receive funding. Projects receiving federal funding must be submitted to EPA for review and approval.

The scopes of work are initiated through contracts for 1 to 3 years depending on the funding source. Deliverables for project activities include but are not limited to quarterly progress reports, press releases, technical reports, and a project final report. SRM staff provide technical assistance and oversight of all project activities. Overall project progress is continuously monitored by SRM staff through project meetings, conference calls, site visits, stakeholder meetings and field days. Request for reimbursement of project activities are reviewed by SRM staff and forwarded to the Fiscal Affairs group for payment processing.

The Texas Legislature and the Congress (through the EPA) provide funding to the TSSWCB to administer the agricultural and silvicultural components to the Texas NPS Management Program through the TSSWCB's NPS Grant Program.

Congress enacted Section 319 of the Clean Water Act (CWA) in 1987, establishing a national program to control nps of water pollution. Under section 319(h), State, Territories, and Indian Tribes receive grant money which support a wide variety of activities including technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific nonpoint source implementation projects. Since 1990, Congress has annually appropriated grant funds to States under Section 319(h) to help them to implement those management programs. EPA's allocation to Texas is split evenly between the TSSWCB and the TCEQ. The TCEQ uses it's half of the funding to focus on urban and industrial NPS pollution, while the TSSWCB focuses on rural agricultural and silvicultural NPS pollution.

During the development of the TSSWCB's FY08-FY09 LAR the agency included an exceptional item to request State GR to augment the federal money received from EPA to implement the NPS Management Program. These dollars would demonstrate the state's commitment to implementing the NPS Management Program and would allow TSSWCB to leverage additional resources beyond the 319 funds. The 80th Texas Legislature approved this request and appropriated general revenue funds to the TSSWCB for the purpose of planning, implementing, and managing programs and practices for preventing and abating agricultural and silvicultural NPS water pollution in impaired watersheds. The 81st Texas Legislature renewed this appropriation for FY2010-FY2011. On May 24, 2007, the TSSWCB approved a *TSSWCB Policy on TMDLs* which provides guidance to staff on directing state appropriations for the NPS Grant Program.

The TSSWCB maintains a website for the NPS Grant Program at http://www.tsswcb.state.tx.us/managementprogram. General information on the NPS Grant Program and specific pages for active and closed activities funded through the program is provided, as well as, program policy and technical guidance documents.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Progress in implementing the Texas NPS Program through the NPS Grant Program is documented and tracked through several mechanisms. One reporting mechanism that is required to be completed each year to ensure continued federal funding from EPA is an annual report. The report highlights the State's efforts to collect data, assess water quality, implement projects that reduce or prevent NPS pollution, and educate

and involve the public to improve and maintain the quality of water resources for current and future generations of Texans.

EPA has established Program Activity Measures (PAM) for tracking the effectiveness of 319 funds nationally. The Grants Reporting and Tracking System (GRTS) is the mechanism used to report information needed by EPA and the State to account successfully to Congress, State Legislatures, and the public on these PAMs. This system has historically focused on limited aspects of Section 319 program implementation, most notably to generally identify where and how Section 319 money is spent. The most important new features of GRTS are: (1) Precisely geo-locating Section 319 projects; (2) including a concise summary of each project; (3) using common geo-locational information to link funded projects to improvements in waters quality over time, which will be reported through EPA's WATERS database (which includes States' 305(b) and 303(d) List information); and (4) providing information on reductions in nonpoint pollutant loads. The new GRTS assists the States in meeting the load reduction reporting requirements of Section 319(h)(11) by providing computer-based tools and formats that have been designed to simplify the effort as much as possible. Specific load reductions achieved through activities funded through the NPS Grant Program are highlighted in the attached NPS Annual Reports.

The Nonpoint Source Success Stories are another mechanism used to track progress of the NPS Management Program and serve two main purposes. First, it offers an opportunity for states to highlight where their restoration efforts have resulted in water quality improvements in NPS-impaired waterbodies. Second, they allow EPA to track the number of NPS-impaired waterbodies that are partially or fully restored—which is a key measure in the effort to document how NPS restoration efforts are improving water quality on a segment basis across the nation. This PAM, known as WQ-10, is part of EPA's 2008 National Water Program Guidance and helps to direct states in their efforts to document results. Only partially or fully restored waterbodies that are featured in stories can be counted under measure WQ-10.

Specific Legislative Performance Measures are described in section 2 under the Texas NPS Management of the SER.

The vast majority of water quality impairments on the 303(d) List are likely due to a diverse array of nonpoint sources and, as such, restoration will take significant, long-term efforts from all sectors (agriculture, industry, municipal, etc.). There is difficulty in achieving water quality restoration in general due to the expected lag time between implementation of best management practices (BMPs) and observation of expectant improvements in water quality due to factors, such as spatial and temporal variability in weather and the implementation of BMPs. These factors can confound detection of trends, particularly when dealing with relatively short periods of time and the diffuse nature of NPS water pollution. Additionally the Texas Water Quality Inventory and 303(d) List, the mechanism used to verify water quality restoration (and ultimately the effectiveness and efficiency of the NPS Grant Program as a whole) is updated biennially (consistent with the federal CWA). As activities funded through the NPS Grant Program continue to implement water quality improvement strategies, there will be a better ability to evaluate the effectiveness and efficiency of the NPS Grant Program as a whole through the verification of water quality restoration and ultimate delisting from the 303(d) List.

The NPS Grant Program is used extensively to implement other TSSWCB programs and functions, most notably the TMDL Program and the WPP Program. Specific evidence showing the effectiveness and efficiency of the NPS Grant Program is provided in Section 7 for each of these other programs.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Federal Funding Source for the NPS Grant Program

The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution. Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972. As amended in 1977, the law became commonly known as the CWA.

Subsequent amendments modified some of the earlier CWA provisions. In 1987, Congress amended the CWA to establish the §319 Nonpoint Source Management Program because it was recognized there was a need for greater federal leadership to help focus State and local nonpoint source efforts. Section 319 required each state to develop and seek EPA approval of a state NPS program. Once EPA approval was attained, states, territories, and Indian tribes became entitled to receive grant money to support implementation of strategies identified in their NPS Management Programs.

In 1993, the Texas Legislature passed Senate Bill 503 establishing the TSSWCB as the lead state agency for activity relating to abating agricultural and silvicultural NPS pollution. Upon passage of Senate Bill 503, the TSSWCB and the TCEQ began collaborating on the development and implementation of the Texas NPS Management Program, and have subsequently administered the program jointly. Ultimately Senate Bill 503 resulted in the State of Texas splitting its CWA §319(h) NPS grant from EPA equally between TSSWCB and TCEQ.

In October 1998, the President signed the 1999 appropriations bill for EPA, doubling the CWA §319(h) NPS grant program nationally (from approximately $100M to $200M). Congress' decision to double the appropriations for the nonpoint source program reflected its recognition of the need to focus attention on nonpoint sources of pollution that contribute to impairment of waters. Through this appropriation, EPA began referring to two categories of 319 funds: 1) base and 2) incremental.

These additional incremental funds were to be utilized only in a manner consistent with the purpose for which they were intended – to support implementation of actions called for in Watershed Restoration Action Strategies (a predecessor of WPPs). As described in the Clean Water Action Plan (in February 1998, President Clinton announced this Clean Water Action Plan to restore and protect America's waters) these Action Strategies were to be developed and implemented to address those watersheds identified as not meeting clean water goals and identified as most in need of attention.

EPA anticipated that development of Watershed Restoration Action Strategies would be initiated promptly and proceed expeditiously, consistent with the need to take a holistic approach to restoration and the importance of involving stakeholders in a substantive way. These steps were essential to assure that the incremental funds were used specifically, as requested by the President and appropriated by the Congress, to ensure implementation of the Clean Water Action Plan.

The current EPA Guidelines for the CWA §319(h) NPS Grant Program, issued in October 2003, essentially changed/clarified the entire “playing field” regarding incremental funds. These Guidelines require that the State only expend incremental funds on the development and implementation of WPPs (described in Section 7) to restore water quality of impaired waterbodies. Therefore, with 319 monies issued subsequent to these Guidelines, the State (TSSWCB and TCEQ) began to fund the development of WPPs in earnest.

State General Revenue Source for the NPS Grant Program

As described in Question B above this funding source originated from the TSSWCB's FY2008-FY2009 Legislative Appropriation Request.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Implementation of the Texas NPS Program through the NPS Grant Program involves partnerships among many organizations. Nonpoint source pollution occurs to an extent anywhere precipitation occurs. The vast majority of water quality impairments on the 303(d) List are likely due to a diverse array of nonpoint sources and, as such, restoration will take significant efforts from all sectors (agriculture, industry, municipal, etc.).

With the extent and variety of NPS issues across Texas, cooperation across political boundaries is essential. Many local, regional, state, and federal agencies play an integral part in managing NPS pollution, especially at the watershed level administer voluntary incentive-driven programs to encourage the installation of management practices that prevent and abate them. They provide information about local concerns and infrastructure and build support for the kind of pollution controls that are necessary to prevent and reduce NPS pollution.

Soil and water conservation districts (SWCDs) are vital partners in working with landowners to implement BMPs that prevent and abate agricultural and silvicultural NPS water pollution. Under its enabling legislation, the TSSWCB is charged with providing technical and financial assistance to agricultural producers and rural landowners who choose to participate in NPS pollution abatement activities. By establishing coordinated frameworks to share information and resources, the State can more effectively focus its water quality protection efforts.

A coalition of government agencies and citizens is necessary to develop and implement water quality protection and restoration strategies. Public participation in watershed restoration activities provides the following benefits:

- improves the quality and increases the quantity of information used as the basis for plans,
- promotes government accountability,
- ensures that state government considers the local perspective in its decisions,
- helps stakeholders gain insight into the nature of water quality problems and alternate solutions in their communities,
- leads to voluntary individual actions to curb pollution, and
- local ownership of water quality.

Stakeholders include all individuals or organizations in the watershed who have one or more of these attributes:

- are significant contributors of pollutant loadings or other impacts to water quality;
- are significantly affected by water quality problems;
- are directly affected by project outcomes or decisions;

- may be required to undertake control measures because of statutory or regulatory requirements;
- have statutory or regulatory responsibilities closely linked to water quality—for example, flood control;
- can help develop or implement actions to remedy water quality problems;
- live in the watershed or use the water resource.

It is the policy of the TSSWCB to always engage affected parties through an open and transparent stakeholder group process prior to engaging in a NPS Grant Program funded activities. Coordination of stakeholders takes place at four levels:

- statewide for agencies and organizations that conduct water quality management activities across the entire state, to target and synchronize their efforts.
- regionally to assess conditions within a basin and establish basin-specific goals and priorities
- locally to develop watershed restoration activities that have local support and input.
- Contracted entities that implement activities funded through the NPS Grant Program

Although not an exhaustive list of possible stakeholders, these categories give some examples of the kinds of groups and people who may become involved in protecting and restoring water resources:

- Public–individuals; civic groups such as those representing environmental, consumer, recreational, and community interests; schools, universities, and private landowners.
- Agriculture and aquaculture – corporate and individual farmers, ranchers, and producers; subsistence and commercial harvesters of fish and shellfish; agricultural groups and organizations.
- Business –commercial, residential, and industrial firms; utilities, business groups, and trade associations.
- Government–city, county, regional, state, federal, and international government agencies, tribes, utility districts, and river authorities.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The SRM staff in cooperation with TCEQ, EPA, and other agencies identify priority areas and activities for the years funding cycle based on the Texas NPS Management Program and the most recently approved *Texas Water Quality Inventory and 303(d) List*. These priorities are identified in a request for proposal (RFP) that is published in the Texas Register and sent to all interested entities. The TSSWCB only releases a portion of the NPS Grant Program funds thought the RFP process. Entities submit proposals to TSSWCB for funding consideration through the RFP. The proposals are reviewed, ranked and scored by SRM staff based on the published ranking criteria and selection of proposals for funding is determined. The funding not released through the RFP is directly awarded to entities to ensure the highest priority activities receive funding. Projects receiving federal funding must be submitted to EPA for review and approval.

The scopes of work are initiated through contracts for 1 to 3 years depending on the funding source. Deliverables for project activities include but are not limited to quarterly progress reports, press releases, technical reports, and a project final report. SRM staff provide technical assistance and oversight of all

project activities. Overall project progress is continuously monitored by SRM staff through project meetings, conference calls, site visits, stakeholder meetings and field days. Request for reimbursement of project activities are reviewed by SRM staff and forwarded to the Fiscal Affairs group for payment processing.

SRM staff are based out of the TSSWCB HQ Office in Temple, with the exception of one FTE placed in the TSSWCB Wharton Regional Office. The SRM staff responsibilities associated with the NPS Grant Program are:

- Overall integration of the NPS Grant Program with other TSSWCB Programs and functions and coordination with other agencies' programs
- Ensuring activities funded through the NPS Grant Program address State water quality priorities as described in the *Texas NPS Management Program*
- Ensuring activities funded through the NPS Grant Program are technically sound and meet all applicable requirements
- Provides guidance on activities funded through the NPS Grant Program that have floodwater prevention, coastal management, and/or groundwater issues
- Assures quality assurance and quality control mechanisms are in place to ensure data that is collected and analyzed with funding from the NPS Grant Program is done in a scientifically sound and defensible manner
- Performs specific project management tasks to ensure tasks in contracts are completed as specified and deliverables are provided on schedule
- Ensures the involvement of SWCDs in all activities funded through the NPS Grant Program

Note that while all SRM FTEs are allocated to this NPS Grant Program, all SRM staff have substantial responsibilities associated with implementing the overall Texas NPS Management Program, the TMDL Program, the WPP Program, and a variety of other programs and functions.

Progress in implementing the NPS Grant Program is documented and tracked through the NPS Annual Report (as required by the CWA). SRM staff work with TCEQ and other cooperating entities to develop the report's content each year to highlight the State's efforts to collect data, assess water quality, implement projects that reduce or prevent NPS pollution, and educate and involve the public to improve and maintain the quality of water resources for current and future generations of Texans.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Texas Legislature and the Congress (through the EPA) provide funding to the TSSWCB to administer the agricultural and silvicultural components to the Texas NPS Management Program through the TSSWCB's NPS Grant Program.

Congress enacted Section 319 of the CWA in 1987, establishing a national program to control nonpoint sources of water pollution. Under section 319(h), State, Territories, and Indian Tribes receive grant money which support a wide variety of activities including technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific nonpoint source implementation projects. Since 1990, Congress has annually appropriated grant funds to States under Section 319(h) to help them to implement those management programs. EPA uses a

formula to allocate the Congressional 319 appropriation to specific States. EPA's allocation to Texas is split evenly between the TSSWCB and the TCEQ. The TCEQ uses it's half of the funding to focus on urban and industrial NPS pollution, while the TSSWCB focuses on rural agricultural and silvicultural NPS pollution.

The 80th Texas Legislature appropriated general revenue funds to the TSSWCB for the purpose of planning, implementing, and managing programs and practices for preventing and abating agricultural and silvicultural NPS water pollution in impaired watersheds. The 81st Texas Legislature renewed this appropriation for FY2010-FY2011. The TSSWCB approves an operating budget that allocates a portion of the general revenue in Strategy B.1.1. for grant funding.

For the Texas NPS Program, the TSSWCB administers general revenue appropriated by the Legislature and federal funds from the EPA in:

B. Goal: NONPOINT SOURCE POLLUTION ABATEMENT
Administer a Program for Abatement of Agricultural Nonpoint Source Pollution

B.1.1 Strategy: STATEWIDE MANAGEMENT PLAN
Implement a Statewide Management Plan for Controlling NPS Pollution

FY2010/2011 *General Revenue*:	$2,584,662
FY2010/2011 *Federal Funds*:	$12,119,500*
FY2010/2011 *Total* Strategy Funding:	$14,704,162

*Estimate:
Federal funds appropriated in the General Appropriations Act are estimates based on the amount of federal funding passed through the agency in the previous fiscal year. Actual amount is dictated by Congress through appropriation to EPA and dispersed to the State by formula.

The TSSWCB uses all funding from this Strategy B.1.1 for the Nonpoint Source Grant Program in every biennium. Strategy B.1.1 includes both general revenue appropriated by the Legislature and federal funds from the EPA through the CWA, Section 319(h). General Revenue funds are used for direct program administration, indirect administration of the agency, and grants to entities for the development and implementation of TMDLs and WPPs, as well as performing demonstration, education, implementation, and research projects in support of the overall Texas NPS Program. A portion of these funds is used to provide the 40% non-federal match requirement of the federal CWA, Section 319(h) grant funding.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The TCEQ is the lead agency in the state for overall water quality management, their responsibilities associated with nonpoint source (NPS) water quality pollution must be restricted to non-agricultural and non-silvicultural sources. The TSSWCB was designated by the Legislature as the lead agency pertaining to agricultural and silvicultural NPS pollution. EPA's allocation of 319 funds to Texas is split evenly between the TSSWCB and the TCEQ. The TCEQ uses it's half of the funding to focus on urban and

industrial NPS pollution, while the TSSWCB focuses on rural agricultural and silvicultural NPS pollution.

The Texas Water Development Board (TWDB) is another agency that has similar natural resource priorities, but has different responsibilities concerning those natural resources. The TWDB's mission is to provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas. Congress appropriates additional dollars through EPA to support implementation of the CWA and the Safe Drinking Water Act through the use of the States' revolving loan program (known as State Revolving Fund or SRF). SRF is administered by the TWDB and these funds are generally directed towards solving major wastewater infrastructure issues that contribute to water pollution.

The Texas Coastal Management Program (CMP) was created to coordinate state, local, and federal programs for the management of Texas coastal resources. The program brings federal Coastal Zone Management Act (CZMA) funds to Texas to implement projects and program activities for a wide variety of purposes. The Coastal Coordination Council (CCC) administers the CMP; the TSSWCB is a statutorily-authorized member of the CCC. The GLO administers these grant funds on behalf of the CCC. From FY2000 – FY2005 federal funds (Coastal NPS Grant Funds) were available to Texas to fund implementation of for the NPS program ($165,000 – $375,000 per year).

In certain watersheds with developed WPPs or TMDLs, the NPS Grant Program is used to augment TSSWCB funding to the WQMP Program (described in Section 7) to provide supplementary technical and financial assistance for the development and implementation of water quality management plans.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Texas NPS Program is the state's statutorily required and overarching program for all NPS pollution related activities, and it serves as the guide that directs all other activities. The Texas NPS Program is jointly administered by the TSSWCB and TCEQ. Very close coordination is performed to establish program goals and objectives, but then each agency proceeds independently toward project development and implementation.

The TSSWCB and TCEQ have entered into a memorandum of understanding (MOU) [30 TAC 7.102] and a separate memorandum of agreement (MOA). These agreements are available in the Attachments Section of this SER under "other." The MOU sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs, while the MOA is a more specific document that addresses TMDLs, TMDL I-Plans, and WPPs.

In addition to joint meetings generally held once per biennium between the State Board of the TSSWCB and the Commissioners of the TCEQ, the appropriate staff of the TSSWCB, TCEQ, and the EPA meet frequently to ensure the Texas NPS Program is consistent with federal requirements. Additionally, TSSWCB and TCEQ management meet regularly to coordinate program policy and direction and to discuss progress on individual NPS projects and initiatives funded through the NPS Grant Program.

Activities in the coastal zone funded through the NPS Grant Program are discussed and coordinated through both the TSSWCB's Coastal Coordination Council function and the Coastal NPS Pollution Control Program (described in Section 7).

As described in Question H above, the SRF as administered by TWDB has traditionally been used to solve major wastewater infrastructure issues which are beyond the jurisdiction of TSSWCB. So, while TSSWCB SRM staff maintain a relationship with TWDB staff with respect to water conservation issues, coordination with the TWDB SRF program has been limited to certain watersheds.

TSSWCB SRM staff are in constant coordination with TSSWCB Regional Offices who implement the WQMP Program. SRM staff work diligently to ensure duplication of efforts does not occur and that financial and personnel resources are maximized to the greatest extent.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The majority of the NPS Grant Program's allocation is contracted to political subdivisions by the TSSWCB through the execution of contracts. For the NPS Grant Program to be effective on both a statewide and watershed level, the TSSWCB must work closely with other state, regional and local organizations to optimize the use of all available resources.

The TCEQ is the lead agency in the state for overall water quality management, their responsibilities associated with NPS water quality pollution must be restricted to non-agricultural and non-silvicultural sources. The TSSWCB was designated by the Legislature as the lead agency pertaining to agricultural and silvicultural NPS pollution. The MOU and MOA that outline the coordination between TCEQ and TSSWCB is discussed in Question I above.

The TSSWCB interacts with the state's 216 individual SWCDs on a regular basis on a myriad of different and ongoing NPS initiatives. SWCDs are frequently involved in NPS Grant Program funded activities as affected stakeholders. SWCDs also serve as contracted entities implementing activities funded through the NPS Grant Program.

Due to the nature of NPS pollution, the TSSWCB also regularly engages in mutual efforts with the United States Department of Agriculture – Natural Resources Conservation Service (NRCS). The TSSWCB, SWCDs, and NRCS have several longstanding memorandums of agreement in place to administer a "conservation partnership." All three entities have the voluntary conservation of soil and water resources as part of their core mission. The presence of the partnership has enabled the State to maintain a fairly small state conservation agency staff when compared to many other state agencies that do not have a federal counterpart with common goals and objectives. NRCS provides significant amounts of financial assistance to farmers and ranchers through federal Farm Bill programs such as the Environmental Quality Incentives Program (EQIP), where local SWCDs help them establish local resource conservation priorities. TSSCWB leverages NPS Grant Program funds with Farm Bill funds by funding technical assistance in priority areas where Farm Bill programs provide financial assistance to agricultural producers to implement BMPs to address NPS pollution. NRCS also serves as a contracted entity

EPA works to develop and enforce regulations that implement environmental laws enacted by Congress. EPA is responsible for researching and setting national standards for a variety of environmental programs, and delegates to states and tribes the responsibility for issuing permits and for monitoring and enforcing

compliance. While EPA protects the nation's natural resources primarily through regulation, EPA has also developed a wide variety of funding, planning, and education programs that are effective in protecting environmental quality. As previously described above, EPA must approve the NPS Management Program and projects that receive federal funds through the NPS Grant Program.

The U.S. Geological Survey (USGS) has the principal responsibility within the Federal Government to provide the hydrologic information and understanding needed by others to achieve the best use and management of the Nation's water resources. Through the National Water Quality Assessment Program (NAWQA), USGS scientists collect and interpret data about water chemistry, hydrology, land use, stream habitat, and aquatic life. The NAWQA Program is a primary source for long-term, nationwide information on the quality of streams, groundwater, and aquatic ecosystems. This information supports national, regional, State, and local decision making and policy formation for water-quality management. The USGS data is frequently used to help prioritize resource allocations made through the NPS Grant Program. USGS also serves as a contracted entity implementing activities funded through the NPS Grant Program.

The Agricultural Research Service (ARS) is the principal in-house research agency of the U.S. Department of Agriculture (USDA). ARS conducts research to develop and transfer solutions to agricultural problems of high national priority. Two of the twenty-two ARS National Programs, Water Quality and Management and Soil Resource Management, are strongly committed to applied nonpoint source pollution research as part of their mission to increase understanding and develop solutions to protect the Nation's soil and water resources. In Texas, ARS is conducting ongoing research on nonpoint source related issues such as: land application of municipal and agricultural wastes; improved management of soil, water, nutrients, and chemicals in agricultural production systems; and enhanced simulation tools for water quality, hydrology, and crop growth. ARS research, conducted by laboratories throughout the state, is often carried out in cooperation with universities, state research and extension centers, and private organizations. USDA-ARS also serves as a contracted entity implementing activities funded through the NPS Grant Program.

The TSSWCB also interacts with county governments; many times county judges or commissioners participate as stakeholders on a project stakeholder groups.

The TSSWCB also utilizes the resources and expertise of CRP Partners (Texas river authorities and municipal water districts) for activities such as stakeholder group development and coordination and water quality monitoring. Through CRP these entities collect the bulk of the data used in the 303(d) and 305(b) assessment report. These groups also serve as contracted entities implementing activities funded through the NPS Grant Program.

The Texas Department of Agriculture (TDA) is a state agency that is charged with addressing broad scale agricultural issues such as rural economic development, food and nutrition programs, marketing and promoting Texas agricultural products around the globe, regulating pesticide usage, and other regulatory programs that pertain to agriculture. TDA is a critical partner in the NPS Grant Program and they help provide leadership on individual project efforts by engaging stakeholders.

The land grant university system was established nationally to focus on the teaching of agriculture, science and engineering as a response to the industrial revolution. In Texas the various agencies and institutes of The Texas A&M University System, such as Texas AgriLife Extension Service, Texas AgriLife Research, Texas Water Resources Institute, Texas Institute for Applied Environmental Research and the Texas Forest Service, share common agricultural goals and natural resource objectives as the TSSWCB. AgriLife Extension and AgriLife Research focus on the education, demonstration, and

research aspects of natural resource conservation, while TSSWCB and SWCDs focus on delivering these technologies and research advancements brought about by those entities to the ground through technical and financial assistance. Likewise, while the Texas Forest Service (TFS) may be responsible for the direction of all forest interests within the state, the TSSWCB is designated as the responsible entity for addressing the NPS pollution aspects of those interests through the Texas NPS Management Program. The TSSWCB utilizes the relationships the TFS has with forest landowners and operators to implement the silvicultural components of the Texas NPS Management Program. The Texas Institute for Applied Environmental Research at Tarleton State University brings together the distinct concerns of industries and environmentalists to develop effective public policies and cooperative, science-based solutions.
These groups also serve as contracted entities implementing activities funded through the NPS Grant Program.

The Texas Parks and Wildlife Department (TPWD) is responsible for the development of water-based recreational activities and the protection of fish and wildlife resources. TPWD is a critical partner in the NPS Grant Program and they help provide leadership on individual project efforts by engaging stakeholders.

All of the agencies mentioned above, and others, share responsibilities related to natural resources in Texas. These agencies have built formal and informal agreements and partnerships to ensure duplication of efforts does not occur and that financial and personnel resources are maximized to the greatest extent. When additional financial assistance is available at other agencies, many times those agencies contract with the TSSWCB to utilize the agency's delivery system through SWCDs. In every situation, it is a goal of these agencies to maintain a productive working relationship between both their policy making bodies and their respective staffs.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in fiscal year 2008 are $7,215,867.68. Under this program, the TSSWCB allocates funding through direct award and an annual Request for Proposals (RFP) process for the NPS Grant Program. There were seven general revenue funded projects with 2008 funding. There were sixty-five federally-funded projects that had federal funding pass-through the agency for work being conducted during 2008. Specific project actions include the development and implementation of WPPs and TMDLs, supporting targeted educational programs, and implementing BMPs to abate NPS pollution from dairy and poultry operations, silvicultural activities, grazing operations, and row crop operations. SRM staff monitors each contract to ensure accountability and performance as described above in Questions B and F.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Texas NPS Management Program, as required by EPA to be revised every 5 years and approved by the TSSWCB, TCEQ, the Governor, and EPA provides an adequate basis for the Program. From the

Governor's December 15, 2005 submission letter to EPA, "The document has been certified by the Attorney General's Office and by the TCEQ's chief legal counsel as to the adequacy of state laws for enacting the measures laid in the plan." Due to the dynamic nature of the program the current public process used to revise the program every five years provides an adequate mechanism to adjust the program's goals and objectives in accordance with statutory priorities. The Texas NPS Management Program provides more than adequate goals, objectives and priorities to direct the allocation of the NPS Grant Program funds to specific activities.

The federal funding portion of the NPS Grant Program has specific guidelines promulgated by EPA in accordance with the CWA.

Therefore no changes are recommended.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

N/A

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Watershed Protection Plan (WPP) Program
Location/Division	Statewide Resource Management Group
Contact Name	• John Foster, Statewide Programs Officer • TJ Helton, Statewide Nonpoint Source Program Coordinator • Aaron Wendt, Statewide Watershed Planning Coordinator
Actual Expenditures, FY 2008	NA [Funding for activities related to WPP development and implementation are made possible through the Nonpoint Source Grant Program; see that program's individual program/function description]
Number of FTEs as of August 31, 2008	NA [FTEs conducting work toward the development and implementation of WPPs are included in the program description for the Nonpoint Source Grant Program]

B. What is the objective of this program or function? Describe the major activities performed under this program.

Watershed Protection Plans (WPPs) are locally-driven efforts that serve as mechanisms for voluntarily addressing complex water quality problems that cross multiple jurisdictions. WPPs are coordinated frameworks for implementing prioritized and integrated water quality protection and restoration strategies driven by environmental objectives. Through the watershed planning process, The Texas State Soil and water Conservation board (TSSWCB) encourages stakeholders to holistically address all of the sources and causes of impairments and threats to both surface and ground water resources within a watershed.

WPPs serve as tools to better leverage the resources of local governments, state and federal agencies, and non-governmental organizations. WPPs integrate activities and prioritize implementation projects based upon technical merit and benefits to the community, promote a unified approach to seeking funding for implementation, and create a coordinated public communication and education program. Developed and implemented through diverse, well integrated partnerships with decision-making founded at the local level, a WPP assures the long-term health of the watershed with strategies for protecting unimpaired waters and restoring impaired waters. Adaptive management is used to modify the WPP based on an on-going science-based process involving monitoring and evaluating strategies and incorporating new knowledge into decision-making.

Design for the WPP Program stems from the Environmental Protection Agency (EPA) Guidelines for the CWA §319(h) grants, specifically *Nonpoint Source Program and Grants Guidelines for States and Territories* [68 Federal Register 205 (23 October 2003), pp. 60653-60674]:

> "EPA has been working with the States to realign our programs to strengthen our support for watershed-based environmental protection, whereby local stakeholders join forces to develop and implement watershed-based plans that make good sense for the particular conditions found within their communities. The watershed approach is a coordinating framework for management that focuses public and private sector efforts to address the highest priority water-related problems within geographic areas, considering both surface and ground water flow. The watershed approach is commonly characterized by four principles: (a) Diverse, well integrated partnerships; (b) a specific geographic focus; (c) action driven by environmental objectives and by strong science and data; and (d) coordinated priority setting and integrated solutions.
>
> These guidelines are intended to help advance the watershed approach as a means for resolving and preventing nonpoint source pollution problems and threats. In the initial stages of the national nonpoint source program, some States and EPA Regions focused their nonpoint source programs narrowly on demonstrations of particular technologies, supported by Federal Section 319 grants. In upgrading their nonpoint source programs during the last few years, many States have incorporated watershed-based approaches as a significant and sometimes central organizing theme of their programs. As a result, State nonpoint source programs have improved their capacity to solve nonpoint source pollution problems at the watershed scale. At the same time, EPA and the States have sharpened our focus upon waterbodies listed by States as impaired under Section 303(d) of the Clean Water Act. This is particularly critical, as nonpoint source pollution is reported by States and others to be responsible for the majority of remaining water pollution in the United States. The two key steps needed to solve nonpoint source problems within a watershed context are the development of a watershed-based plan that addresses a waterbody's water quality needs and the actual implementation of the plan.
>
> These guidelines discuss the use of detailed watershed-based plans to help solve water quality problems at the watershed level. The watershed-based plan must address a large enough geographic area so that its implementation will address all of the sources and causes of impairments and threats to the waterbody in question. While there is no rigorous definition or delineation for this concept, the general intent is to avoid…narrowly defined areas that do not provide an opportunity for addressing a watershed's stressors in a rational and economic manner. At the same time, the scale should not be so large as to minimize the probability of successful implementation."

Authority for the WPP Program flows from the *Texas NPS Management Program*, as approved by the Governor, the TSSWCB, the TCEQ, and the EPA [TCEQ, SFR-068/04, December 2005]:

> "As prescribed by current Nonpoint Source EPA guidelines, Texas' program incorporates EPA's… elements of an effective [NPS] program, which allow for maximum flexibility in managing NPS pollution.
>
> Element 5 – The state program identifies waters and their watersheds impaired by nonpoint source pollution…. Further, the state establishes a process to progressively address these identified waters by…developing watershed implementation plans, and

> then by implementing the plans. The TSSWCB leads the development of…watershed protection plans for waterbodies primarily impacted by agricultural or silvicultural sources, and will implement practices in those watersheds to mitigate the water quality problems. The TCEQ leads the development of… watershed protection plans in areas affected by all other nonpoint sources.
>
> The TCEQ and TSSWCB have established… short-term goals and objectives for NPS management for guiding and tracking the progress of NPS management in Texas. The goals describe high-level guiding principles for all activities under the Program. The objectives specify the key methods that will be used to accomplish the goals.
>
> Goal One – Data Collection and Assessment: Objective – Develop… Watershed Protection Plans to maintain and restore water quality in waterbodies identified as impacted by NPS pollution.
>
> Goal Two – Implementation: Objective – Implement… Watershed Protection Plans developed to restore and maintain water quality in waterbodies identified as impacted by nonpoint source pollution."

The EPA Guidelines describe nine elements fundamental to a potentially successful WPP:

a) Identification of the causes that will need to be controlled to achieve the load reductions described in (b)
b) Estimate of the load reductions expected for the management measures described in (c)
c) Description of management measures that will need to be implemented to achieve the load reductions described in (b)
d) Estimate of technical and financial assistance needed to implement this plan
e) Information/education component that will be used to enhance public understanding of this plan
f) Schedule for implementing management measures described in (c)
g) Description of interim, measurable milestones for determining whether management measures described in (c) are being implemented
h) Set of criteria that can be used to determine whether load reductions described in (b) are being achieved
i) Water quality monitoring component to evaluate effectiveness of implementation measured against the established criteria described in (h)

TSSWCB provides technical and financial assistance to local stakeholder groups to develop and implement WPPs consistent with EPA's nine elements. Entities are provided financial assistance (grants) necessary to facilitate the WPP development process in specific watersheds with significant agricultural or silvicultural NPS pollution. Additionally, TSSWCB staff provide technical assistance in developing WPPs which are funded and facilitated by other entities, such as The Texas Commission on Environmental Quality (TCEQ) or some other third party.

On September 27, 2006, at a joint meeting, the TSSWCB and the TCEQ approved a revised *Memorandum of Agreement on Total Maximum Daily Loads, Implementation Plans, and Watershed Protection Plans*. This framework for collaboration between the two agencies clarifies and strengthens the programmatic mechanisms employed to develop and implement WPPs. The entire MOA is available at http://www.tsswcb.state.tx.us/wpp#moa.

The development of WPPs currently sponsored by TSSWCB have significant agricultural or silvicultural NPS pollution components and are all funded through the NPS Grant Program.

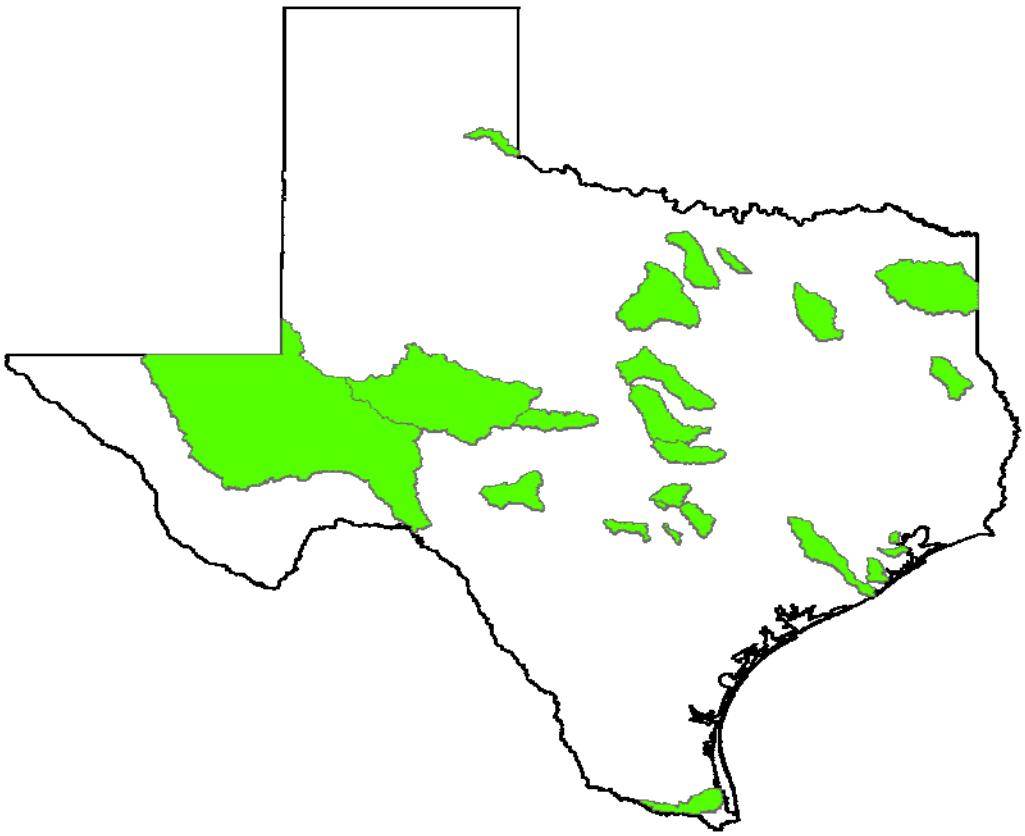
- Attoyac Bayou
- Buck Creek
- Concho River
- Geronimo Creek
- Lake Granger
- Lampasas River
- Leon River
- Pecos River
- Plum Creek

While WPPs sponsored by TCEQ have significant water quality issues related to urban NPS pollution or wastewater treatment, most, to varying degrees, have agricultural or silvicultural NPS pollution components.

- Arroyo Colorado
- Bastrop Bayou
- Brady Creek
- Caddo Lake
- Upper Cibolo Creek
- Cypress Creek
- Dickinson Bayou
- Lake Granbury
- Hickory Creek
- Upper San Antonio River

There are several other watershed planning efforts across the state which are funded and sponsored by entities and agencies other than the TSSWCB or the TCEQ. These third-party WPPs may or may not adequately satisfy EPA's nine elements; although, those that do, are eligible to receive CWA §319(h) funding from the TSSWCB to support implementation of agricultural or silvicultural NPS pollution components of the WPP.

- Armand Bayou
- Onion Creek and Barton Springs
- Cedar Creek Reservoir
- Eagle Mountain Reservoir
- San Bernard River
- South Llano River



Once an entity has developed a WPP, it is submitted to the State (either TSSWCB or TCEQ) and then to EPA for official review. This consistency review process is designed to assess if the WPP satisfies the intent of the nine elements or if it is somehow deficient and does not provide adequate information. This consistency review process should not be construed as an "approval" or "adoption" process; rather, it is to ensure that adequate technical justification exists in the plan to substantiate the expenditure of state and/or federal funds to implement the WPP in order to restore water quality.

The CWA requires the State to establish a Total Maximum Daily Load (TMDL) for certain waterbodies identified on the 303(d) List of Impaired Waters. A TMDL defines the maximum amount of a pollutant that a waterbody can assimilate on a daily basis and still meet water quality standards; TMDLs are "adopted" by TCEQ and "approved" by EPA – a key difference from WPPs. The TSSWCB asserts, and EPA concurs, that in some watersheds, the development and implementation of a WPP may be a more viable approach to achieving restoration of water quality than through the establishment of a TMDL. EPA has outlined a process by which the State may submit a WPP in lieu of a TMDL. That document discusses the national guidance and regulatory mechanisms governing the process of utilizing WPPs in lieu of TMDLs, as well as, discusses how this "4b option" relates to the nine elements of WPPs. Essentially, this "4b option" recognizes that certain alternative pollution control measures, such as a WPP, may obviate the need for a TMDL and that the most effective method for achieving water quality standards for some waterbodies may be through management measures developed and implemented without TMDLs. The significance and complexity of whether a WPP may serve in lieu of a TMDL necessitates close coordination between watershed stakeholders, the State and EPA.

In order to abate agricultural and silvicultural NPS pollution, WPPs will implement components of other TSSWCB Programs, such as the Water Quality Management Plan (WQMP) Program or the Water Supply Enhancement Program (described in Section 7). Additionally, the TSSWCB NPS Grant Program (described in Section 7) serves as a funding source to implement the agricultural and silvicultural NPS components of WPPs.

The TSSWCB maintains a website for the WPP Program at http://www.tsswcb.state.tx.us/wpp. General information on WPPs is provided, as well as, program policy and technical guidance documents.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The nine elements essential to WPPs specifically require the inclusion of criteria and milestones to demonstrate/evaluate incremental success and ultimate water quality restoration. So, each WPP, once developed and being implemented, can provide evidence (statistics and performance measures) that shows the effectiveness and efficiency of the WPP Program as a whole. However, the first TSSWCB sponsored WPPs have just completed development, gone through the consistency review process, and are now entering the initial stages of implementation. WPPs for the Pecos River and Plum Creek received a federal letter of review in April 2009 and July 2009, respectively. Development of four TSSWCB sponsored WPPs will be completed in FY2010. Three other TSSWCB-sponsored WPPs are in even earlier stages of development. As WPPs move progressively deeper into implementing water quality improvement strategies, there will be a better ability to evaluate the effectiveness and efficiency of the WPP Program as a whole through the examination of each WPP's criteria and milestones.

The vast majority of water quality impairments on the 303(d) List are likely due to a diverse array of nonpoint sources and, as such, restoration will take significant, long-term efforts from all sectors (agriculture, industry, municipal, etc.). Developed WPPs generally have established a 10-15 year implementation schedule to restore water quality. There is difficulty in achieving water quality restoration in general due to the expected lag time between implementation of best management practices (BMPs) and observation of expectant improvements in water quality due to factors, such as spatial and temporal variability in weather and the implementation of BMPs. These factors can confound detection of trends, particularly when dealing with relatively short periods of time and the diffuse nature of NPS water pollution. Additionally the Texas Water Quality Inventory and 303(d) List, the mechanism used to verify water quality restoration (and ultimately the effectiveness and efficiency of the WPP Program as a whole) is updated biennially (consistent with the federal CWA). As WPPs move progressively deeper into implementing water quality improvement strategies, there will be a better ability to evaluate the effectiveness and efficiency of the WPP Program as a whole through the verification of water quality restoration and ultimate delisting from the 303(d) List.

Further, when monies from the NPS Grant Program are used to implement WPPs, those individual scopes of work will have specific measures of success that can be used as evidence that shows the effectiveness and efficiency of the WPP Program as a whole. As described above, only a couple of TSSWCB-sponsored WPPs have entered the initial stages of implementation. The NPS Grant Program scopes of work that are implementing components of WPPs are currently on-going and it would be premature to assess their measures of success in the middle of the contractors executing the contracts.

Progress in implementing the Texas NPS Program through the Statewide NPS Grant Program is documented and tracked through several mechanisms. One reporting mechanism that is required to be

completed each year to ensure continued federal funding from EPA is an annual report. The report highlights the State's efforts to collect data, assess water quality, implement projects that reduce or prevent NPS pollution, and educate and involve the public to improve and maintain the quality of water resources for current and future generations of Texans. Specific WPPs are highlighted in this annual report.

A fundamental tenant of the WPP Program is that responsibility for decision-making regarding the management of water resources is founded at the local level. TSSWCB is pleased to document engaging over 649 stakeholders in local watershed planning efforts sponsored by the agency.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution. Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972. As amended in 1977, the law became commonly known as the CWA.

Subsequent amendments modified some of the earlier CWA provisions. In 1987, Congress amended the CWA to establish the §319 NPS Management Program because it was recognized there was a need for greater federal leadership to help focus State and local nonpoint source efforts. Section 319 required each state to develop and seek EPA approval of a state NPS program. Once EPA approval was attained, states, territories, and Indian tribes became entitled to receive grant money to support implementation of strategies identified in their NPS Management Programs.

In 1993, the Texas Legislature passed Senate Bill 503 establishing the TSSWCB as the lead state agency for activity relating to abating agricultural and silvicultural NPS pollution. Upon passage of Senate Bill 503, the TSSWCB and the TCEQ began collaborating on the development and implementation of the Texas NPS Management Program, and have subsequently administered the program jointly. Ultimately Senate Bill 503 resulted in the State of Texas splitting its CWA §319(h) NPS grant from EPA equally between TSSWCB and TCEQ.

In October 1998, the President signed the 1999 appropriations bill for EPA, doubling the CWA §319(h) NPS grant program nationally (from approximately $100M to $200M). Congress' decision to double the appropriations for the nonpoint source program reflected its recognition of the need to focus attention on nonpoint sources of pollution that contribute to impairment of waters. Through this appropriation, EPA began referring to two categories of 319 funds: 1) base and 2) incremental.

These additional incremental funds were to be utilized only in a manner consistent with the purpose for which they were intended – to support implementation of actions called for in Watershed Restoration Action Strategies (a predecessor of WPPs). As described in the Clean Water Action Plan (in February 1998, President Clinton announced this Clean Water Action Plan to restore and protect America's waters) these Action Strategies were to be developed and implemented to address those watersheds identified as not meeting clean water goals and identified as most in need of attention.

EPA anticipated that development of Watershed Restoration Action Strategies would be initiated promptly and proceed expeditiously, consistent with the need to take a holistic approach to restoration and the importance of involving stakeholders in a substantive way. These steps were essential to assure that

the incremental funds were used specifically, as requested by the President and appropriated by the Congress, to ensure implementation of the Clean Water Action Plan.

As described in Question B, the current EPA Guidelines for the CWA §319(h) grants, issued in October 2003, essentially changed/clarified the entire "playing field" regarding incremental funds. These Guidelines require that the State only expend incremental funds on the development and implementation of WPPs to restore water quality of impaired waterbodies. Therefore, with 319 monies issued subsequent to these Guidelines, the State (TSSWCB and TCEQ) began to fund the development of WPPs in earnest.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

By design, WPPs affect everyone within a particular watershed. As described in Question B, WPPs are holistic in nature, casting aside jurisdictional boundaries in order to address all of the sources and causes of impairments and threats to water resources. WPPs are developed and implemented through diverse, well integrated partnerships of stakeholders. Stakeholders are those who make and implement decisions, those who are affected by the decisions made, and those who have the ability to assist or impede implementation of the decisions.

TSSWCB works with its contractors to cast as wide a net as possible to secure the involvement of a diverse group of decision-makers for each WPP being developed. A short list of stakeholders used as a starting point in the watershed planning process includes:

- Landowners
- Citizen groups
- Local municipal representatives
- County or regional representatives
- Business and industry representatives
- Community service organizations
- Religious organizations
- Universities, colleges, and schools
- Environmental and conservation groups
- Soil and water conservation districts
- Irrigation districts
- Underground water conservation districts
- State and federal agencies

The WPP Program has no qualifications or eligibility requirements except that the individual or entity must have a demonstrated "stake" in managing the water resources covered under that WPP.

Because there is great diversity in the water quality knowledge level of stakeholders participating in the development of WPPs, TSSWCB saw a need to develop an education program which would provide a foundation of knowledge for stakeholders. So, through a NPS Grant from TSSWCB and EPA to the Texas AgriLife Extension Service, the Texas Watershed Steward Program (http://tws.tamu.edu/) was developed to support the development and implementation of WPPs by promoting a sustainable proactive approach to managing water quality at the local level by empowering individuals to take leadership roles in the management of water resources.

As described in Question C, TSSWCB is pleased to document engaging over 649 stakeholders in local watershed planning efforts sponsored by the agency. Neither the TSSWCB nor its' contractors record demographic information on stakeholders participating in the WPP Program.

Once a specific WPP is developed and the process moves to implementation, the spectrum of affected persons and entities grows exponentially. In order to conduct an effective and efficient planning process, frequently only key decision makers representing the diversity of stakeholder "categories" are involved in developing the WPP. It is then through implementation of strategies, BMPs, and education programs called for in WPPs, that many more individuals and entities are "affected" by the WPP Program. For example, either directly by accepting cost-share offered by TSSWCB to implement some particular BMP to abate agricultural NPS or indirectly because some citizen happened to read a newspaper article or brochure that discussed some water quality issue.

As described in Question C, the nine elements essential to WPPs specifically require the inclusion of criteria and milestones to demonstrate/evaluate incremental success and ultimate water quality restoration. These should include criteria to evaluate the success of education programs to affect behavior change in individuals. So, each WPP, once developed and being implemented, should be able to provide statistical breakdowns of persons and entities affected. However, the first TSSWCB sponsored WPPs have just completed development, gone through the consistency review process, and are now entering the initial stages of implementation. As WPPs move progressively deeper into implementing water quality improvement strategies, there will be a better ability to evaluate the diversity of affected persons and entities through the examination of each WPP's criteria and milestones.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

As mentioned in Question B, TSSWCB provides technical and financial assistance to local stakeholder groups to develop and implement WPPs consistent with EPA's nine elements. Entities are provided financial assistance (grants) necessary to facilitate the WPP development process in specific watersheds with significant agricultural or silvicultural NPS pollution. Additionally, TSSWCB staff provide technical assistance in developing WPPs which are funded and facilitated by other entities, such as TCEQ or some other third party.

The Statewide Resource Management (SRM) Group provides technical guidance on the development of WPPs to contractors and local stakeholder groups. SRM staff provide interpretation of EPA Guidelines, issue direction on satisfying the nine elements of WPPs, provide guidance on the use of technical tools (such as computer modeling) to develop WPPs, ensure that WPPs are holistic and designed to address State water quality priorities, and facilitate adequate stakeholder involvement in the process.

The SRM Group staff (based out of the TSSWCB HQ Office in Temple) responsibilities associated with the WPP Program are:

- Overall integration of the WPP Program with other TSSWCB Programs and functions and coordination with other agencies' programs
- Ensuring WPPs address State water quality priorities as described in the *Texas NPS Management Program*
- Ensuring WPPs are technically sound and satisfy the nine elements
- Provides guidance on WPPs that have floodwater prevention and/or coastal management issues

- Provides guidance on WPPs that have groundwater issues
- Assures quality assurance and quality control mechanisms are in place to ensure data that is collected and analyzed during the development of WPPs is done in a scientifically sound and defensible manner
- When TSSWCB NPS Grant Program monies are provided to contractors for the development of WPPs, performs specific project management tasks to ensure tasks in contracts are completed as specified and deliverables are provided on schedule
- Ensures the involvement of SWCDs in the development and implementation of WPPs

SRM staff spend a significant amount of time out of the office and in priority watersheds interacting with stakeholders and providing technical guidance on WPPs.

Note that SRM Group staff engaged in the WPP Program are so engaged as a function of their attachment to the overall Texas NPS Management Program. No SRM Group staff are dedicated solely and completely to the administration of the WPP Program.

Critical WPP Program policies and procedures include the previously discussed EPA 319 Guidelines which describe the nine elements and the TSSWCB-TCEQ MOA which clarifies how the two agencies coordinate WPP activities. Further, the EPA "4b option" document described in Question B outlines the process for submitting a WPP in lieu of a TMDL.

In March 2008, EPA published *Handbook for Developing Watershed Plans to Restore and Protect Our Waters* (EPA 841-B-08-002). This handbook is intended to help communities, watershed organizations, and state, local, tribal and federal environmental agencies develop and implement watershed plans to meet water quality standards and protect water resources. It was designed to help any organization undertaking a watershed planning effort, and it should be particularly useful to persons working with impaired or threatened waters. The handbook is generally more specific than other guides with respect to guidance on quantifying existing pollutant loads, developing estimates of the load reductions required to meet water quality standards, developing effective management measures, and tracking progress once the plan is implemented. In practice, this handbook serves as TSSWCB's WPP Program comprehensive manual for use by contractors in developing WPPs. The handbook is available on the Internet at http://www.epa.gov/owow/nps/watershed_handbook.

To ensure WPPs are adequately planned, coordinated, implemented, and results properly assessed and reported, the Texas Watershed Planning Short Course (http://watershedplanning.tamu.edu/) was developed to deliver training to watershed coordinators and water resource professionals. The Short Course uses the EPA Handbook as its curriculum. The Short Course is funded through a CWA §319(h) NPS Grant from TCEQ and EPA to the Texas Water Resources Institute. TSSWCB SRM staff (Statewide Watershed Planning Coordinator) contributed to the development of the Short Course program and serves as an instructor when the Short Course is offered. Further, TSSWCB SRM staff (Quality Assurance Officer, Project Managers (3), Regional Watershed Coordinator) have been participants in the Short Course. Additionally, TSSWCB requires that its' contractors who are developing WPPs to have taken the Short Course.

EPA is currently in the process of developing a *Guide for Review of Watershed-Based Plans*; TSSWCB has provided comment on the draft version. The Guide is intended as a tool to assist EPA staff in reviewing and providing constructive feedback on WPPs, achieve consistency in EPA reviews of WPPs, and assist the State (and their contractors) in understanding EPA's expectations of the contents of WPPs. When finalized, this Guide will provide better consistency in satisfying the nine elements of WPPs as outlined in the EPA 319 Guidelines, which will lead to more reliable and timely restoration of water

quality. Once completed, this Guide would be used by TSSWCB (and EPA) in the consistency review process described in Question B.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB NPS Grant Program serves as a funding source to develop WPPs. Further, in order to abate agricultural and silvicultural NPS pollution, WPPs will implement components of other TSSWCB Programs, such as the Water Quality Management Plan (WQMP) Program or the Water Supply Enhancement Program (described in detail at…). Additionally, the TSSWCB NPS Grant Program (described in Section 7) serves as a funding source to implement the agricultural and silvicultural NPS components of WPPs.

As such, there are no specific amounts dedicated solely to the WPP Program. Nor are there any funding formulas or conventions, except that, as described in Question D, the EPA 319 Guidelines require that the State only expend incremental funds (approximately half of the annual Congressional appropriation) on the development and implementation of WPPs to restore water quality of impaired waterbodies.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

WPPs currently sponsored by TSSWCB have significant agricultural or silvicultural NPS pollution components and are all funded through the NPS Grant Program. While WPPs sponsored by TCEQ have significant water quality issues related to urban NPS pollution or wastewater treatment, most, to varying degrees, have agricultural or silvicultural NPS pollution components. There are several other watershed planning efforts across the state which are funded and sponsored by entities and agencies other than the TSSWCB or the TCEQ. These third-party WPPs may or may not adequately satisfy EPA's nine elements; although, those that do, are eligible to receive CWA §319(h) funding from the TSSWCB to support implementation of agricultural or silvicultural NPS pollution components of the WPP.

In order to abate agricultural and silvicultural NPS pollution, WPPs will implement components of other TSSWCB Programs, such as the Water Quality Management Plan Program or the Water Supply Enhancement Program. Additionally, the TSSWCB NPS Grant Program serves as a funding source to implement the agricultural and silvicultural NPS components of WPPs.

As described in Question B above, WPPs address complex water quality problems that cross multiple jurisdictions and holistically address all of the sources and causes of impairments and threats to both surface and ground water resources within a watershed. Due to this broad scope of WPPs in certain watersheds a variety of programs administered by other agencies may appear to provide a similar function when in fact they provide complementary benefits and additional resources to the watershed planning process:

- Coastal zone management activities administered through the CCC and GLO can provide additional funding sources and technical resources to help develop and implement WPPs along the coast.
- Groundwater protection activities prioritized by the Texas Groundwater Protection Committee in

concert with local Underground Water Conservation Districts provide critical information regarding the interaction between surface water and groundwater within certain watersheds.
- Programs that examine environmental flows such as, the Texas Instream Flow Program provide beneficial information into how water quality protection strategies impact environmental flows.
- Programs implemented by TPWD to protect and enhance fish and wildlife resources can bring unique habitat management aspects to watershed planning activities.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

By definition, WPPs require the crossing of geographical jurisdictions and holistic topical scopes. Therefore, for each local WPP effort, the degree to which programs in Question H are "coordinated" varies. It is up to TSSWCB, through the provision of technical assistance to stakeholder group, to provide the leadership to ensure that WPPs do coordinate with these other programs.

As previously described, on September 27, 2006, the TSSWCB and the TCEQ approved a revised Memorandum of Agreement on Total Maximum Daily Loads, Implementation Plans, and Watershed Protection Plans. This framework for collaboration between the two agencies clarifies and strengthens the programmatic mechanisms employed to develop and implement WPPs.

In addition to joint meetings generally held once per biennium between the State Board of the TSSWCB and the Commissioners of the TCEQ, the appropriate staff of the TSSWCB, TCEQ, and the EPA meet frequently to ensure the Texas NPS Program is consistent with federal requirements. Additionally, TSSWCB and TCEQ management meet regularly to coordinate program policy and direction and to discuss progress on individual WPPs.

WPPs that are being develop and implemented in the coastal zone are discussed and coordinated through both the TSSWCB's Coastal Coordination Council function and the Coastal NPS Pollution Control Program described in Section 7.

WPPs that have a significant groundwater component are discussed and coordinated through the TSSWCB's Texas Groundwater Protection Committee function described in Section 7.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The development and implementation of WPPs is funded by TSSWCB through the NPS Grant Program. These grants are provided to a variety of entities (mostly political subdivisions) to conduct stakeholder facilitation, data collection and analysis, computer modeling and other activities essential to the watershed planning process. For the WPP Program to be effective on both a statewide and watershed level, the TSSWCB must work closely with other state, regional and local organizations to optimize the use of all available resources.

The TCEQ is the lead agency in the state for overall water quality management, their responsibilities associated with nonpoint source (NPS) water quality pollution must be restricted to non-agricultural and non-silvicultural sources. For TSSWCB sponsored-WPPs that contain an urban NPS or wastewater

component, TSSWCB SRM staff ensure TCEQ is involved in the watershed planning process for that watershed.

Because TSSWCB is only involved in WPPs that have a significant agricultural or silvicultural NPS component, the involvement of local SWCDs is always paramount. TSSWCB SRM staff, in concert with TSSWCB Field Representatives, ensure the active engagement of the state's 216 individual local Soil and Water Conservation Disticts (SWCDs) on a regular basis in the watershed planning process. Further, SWCDs also serve as contracted entities implementing activities identified in specific WPPs.

Due to the nature of NPS pollution, the TSSWCB also regularly engages in mutual efforts with the United States Department of Agriculture – Natural Resources Conservation Service (NRCS).The TSSWCB, SWCDs, and NRCS have several longstanding memorandums of agreement in place to administer a "conservation partnership." All three entities have the voluntary conservation of soil and water resources as part of their core mission. The presence of the partnership has enabled the State to maintain a fairly small state conservation agency staff when compared to many other state agencies that do not have a federal counterpart with common goals and objectives. NRCS provides significant amounts of financial assistance to farmers and ranchers through federal Farm Bill programs such as the Environmental Quality Incentives Program (EQIP), where local SWCDs help them establish local resource conservation priorities; these federal Farm Bill program priorities frequently compliment the priorities and implementation strategies identified in specific WPPs. TSSCWB leverages NPS Grant Program funds with Farm Bill funds by funding technical assistance in to implement WPPs where Farm Bill programs provide financial assistance to agricultural producers to implement BMPs in accordance with a WPP.

As previously discussed, the basis for the WPP Program stems from EPA's Guidelines for CWA §319(h) grants. As such TSSWCB coordinates with EPA at all stages of developing and implementing WPPs. EPA has also developed a wide variety of funding, planning, and education programs (beyond 319 grants) that are effective in protecting environmental quality and furthering the development and implementation of WPPs.

The U.S. Geological Survey (USGS) has the principal responsibility within the Federal Government to provide the hydrologic information and understanding needed by others to achieve the best use and management of the Nation's water resources. USGS data is frequently used to help prioritize water quality protection and restoration activities identified in specific WPPs. USGS also serves as a contracted entity funded through the NPS Grant Program to collect water quality data to be used in the development of WPPs.

The TSSWCB also interacts with county governments; many times county judges or commissioners, to participate as stakeholders in the watershed planning process.

The TSSWCB also utilizes the resources and expertise of CRP Partners (Texas river authorities and municipal water districts) for activities such as stakeholder group development and coordination and water quality monitoring. Through CRP these entities collect the bulk of the data used in the 303(d) and 305(b) assessment report. These groups also serve as contracted entities for the development and implementation of WPPs funded through the NPS Grant Program.

The Texas Department of Agriculture (TDA) is a state agency that is charged with addressing broad scale agricultural issues such as rural economic development, food and nutrition programs, marketing and promoting Texas agricultural products around the globe, regulating pesticide usage, and other regulatory programs that pertain to agriculture. TDA is a critical partner in the WPP Program and they help provide leadership in individual watersheds by engaging stakeholders.

The land grant university system was established nationally to focus on the teaching of agriculture, science and engineering as a response to the industrial revolution. In Texas the various agencies and institutes of The Texas A&M University System, such as Texas AgriLife Extension Service, Texas AgriLife Research, Texas Water Resources Institute, Texas Institute for Applied Environmental Research and the Texas Forest Service, share common agricultural goals and natural resource objectives as the TSSWCB WPP Program. These groups frequently serve as contracted entities for the development and implementation of WPP funded through the NPS Grant Program.

All of the agencies mentioned above, and others, share responsibilities related to natural resources in Texas. These agencies have built formal and informal agreements and partnerships to ensure duplication of efforts does not occur and that financial and personnel resources are maximized to the greatest extent. In every situation, it is a goal of these agencies to maintain a productive working relationship between both their policy making bodies and their respective staffs.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

As described in Question G, all contracted expenditures associated with the WPP Program are made through the TSSWCB NPS Grant Program. The NPS Grant Program serves as a funding source to both develop WPPs and implement the agricultural and silvicultural NPS components of WPPs. Specific answers to Question K regarding purpose of contracts and accountability methods are provided in the NPS Grant Program section of this SER.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Texas NPS Management Program, as required by EPA to be revised every 5 years and approved by the TSSWCB, TCEQ, the Governor, and EPA provides an adequate basis for the Program. From the Governor's December 15, 2005 submission letter to EPA, "The document has been certified by the Attorney General's Office and by the TCEQ's chief legal counsel as to the adequacy of state laws for enacting the measures laid in the plan." Due to the dynamic nature of the program the current public process used to revise the program every five years provides an adequate mechanism to adjust the program's goals and objectives in accordance with statutory priorities. The Texas NPS Management Program provides more than adequate goals, objectives and priorities to direct the development and implementation of WPPs through the TSSWCB's WPP Program. Therefore no changes are recommended.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

N/A

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Total Maximum Daily Load Program
Location/Division	Statewide Resource Management Group
Contact Name	• John Foster, Statewide Programs Officer • TJ Helton, Statewide Nonpoint Source Program Coordinator • Aaron Wendt, Statewide Watershed Planning Coordinator
Actual Expenditures, FY 2008	NA [Funding for activities related to TMDL development and implementation are made possible through the Nonpoint Source Grant Program; see that program's individual program/function description]
Number of FTEs as of August 31, 2008	NA [FTEs conducting work toward the development and implementation of TMDLs are included in the program description for the Nonpoint Source Grant Program]

B. What is the objective of this program or function? Describe the major activities performed under this program.

The federal Clean Water Act (CWA) requires Texas to identify lakes, rivers, streams and estuaries failing to meet or not expected to meet water quality standards and not supporting their designated uses (contact recreation, drinking, aquatic life, etc.). This list of impaired waterbodies is known as the Texas 303(d) List and must be submitted to the U.S. Environmental Protection Agency (EPA) for review and approval every two years. The 2008 303(d) List was approved by EPA on July 9, 2008. The List also identifies the pollutants or conditions responsible for impairment. The 2008 List identifies 838 impairments (waterbody-pollutant combinations).

The State must establish a Total Maximum Daily Load (TMDL) for certain waterbodies identified on the 303(d) List. A TMDL defines the maximum amount of a pollutant that a waterbody can assimilate on a daily basis and still meet water quality standards, essentially a budget for allowable pollution. The pollution reduction goal set by the TMDL is necessary to restore attainment of the designated use of the impaired waterbody. The maximum amount of pollutant is determined by conducting a detailed water quality assessment that provides the information for a TMDL to allocate pollutant loads between point sources, nonpoint sources, and natural sources. It also takes into account a margin of safety, which reflects uncertainty; the load allocation must also allow for future growth. TMDLs must be legally and scientifically defensible; therefore, TMDLs describe that data, analyses, and assumptions used in calculating the allocations and identify the causes and sources of the pollutant and estimates the load

reductions necessary to restore water quality. If the State fails to meet its obligations and develop a TMDL for an impaired waterbody within 13 years of when it was placed on the 303(d) List, the CWA requires EPA to establish TMDLs for the State.

Based on the environmental target of the TMDL, an Implementation Plan (I-Plan) is then developed that prescribes the measures necessary to mitigate anthropogenic (human-caused) sources of that pollutant in that waterbody. The I-Plan specifies limits for point source dischargers and recommends best management practices (BMPs) for nonpoint sources. Where nonpoint sources of pollution are identified, the State will work through the Texas NPS Management Program to encourage local implementation of voluntary actions to reduce the amount of pollutants entering waterbodies. It also lays out a schedule for implementation. Together, the TMDL and the I-Plan serve as the mechanism to reduce the pollutant, restore the full use of the waterbody and remove it from the 303(d) List. EPA must approve the TMDL, but the I-Plan only requires State approval.

The State's TMDL Program works to improve water quality in impaired waterbodies in Texas. The program is a major component in the State's strategy for managing the quality of water in Texas streams, lakes, bays, and other surface waters. The TCEQ and the TSSWCB are the state agencies having primary responsibility for developing and implementing TMDLs.

On September 27, 2006, the TSSWCB and the TCEQ renewed this partnership and approved a revised *Memorandum of Agreement on Total Maximum Daily Loads, Implementation Plans, and Watershed Protection Plans*. This framework for collaboration between the two agencies clarifies and strengthens the programmatic mechanisms employed to develop and implement TMDLs and I-Plans.

The TCEQ is the State's lead agency for urban nonpoint source pollution abatement and for point source discharge permitting through the Texas Pollutant Discharge Elimination System (TPDES). The TSSWCB is the lead State agency for planning, implementing, and managing programs and practices for preventing and abating agricultural and silvicultural NPS water pollution. The TCEQ, which has overall authority for managing the quality of surface waters, must adopt all TMDLs and is the agency responsible for their submission to the EPA. In accordance with the MOA, the State Board will consider taking action on (i.e., approving) TMDLs and I-Plans with significant agricultural or silvicultural NPS components.

The federal mandate for the TMDL Program is contained in the CWA §303(d).

> "Each state shall identify those waters within its boundaries for which the effluent limitations required… are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.
>
> Each State shall establish for the waters identified…, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies… as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality."

The Texas TMDL Program was created and authorized to fulfill the requirements of CWA §303(d). The CWA requires that where point source controls alone (i.e., technology-based effluent limitations through the TPDES as administered by TCEQ) are not sufficient to attain water quality standards, a TMDL must

be established to resolve the remaining water quality problems, including agricultural and silvicultural nonpoint sources.

The federal regulations governing TMDL programs, issued in 1992, are described in 40 CFR 130.7. Texas TMDL guidelines are consistent with federal regulations and further define requirements that are specific to the state.

In accordance with EPA guidance, specifically *Guidelines for Reviewing TMDLs Under Existing Regulations Issued in 1992* (May 2002), an approvable TMDL includes 10 required components:

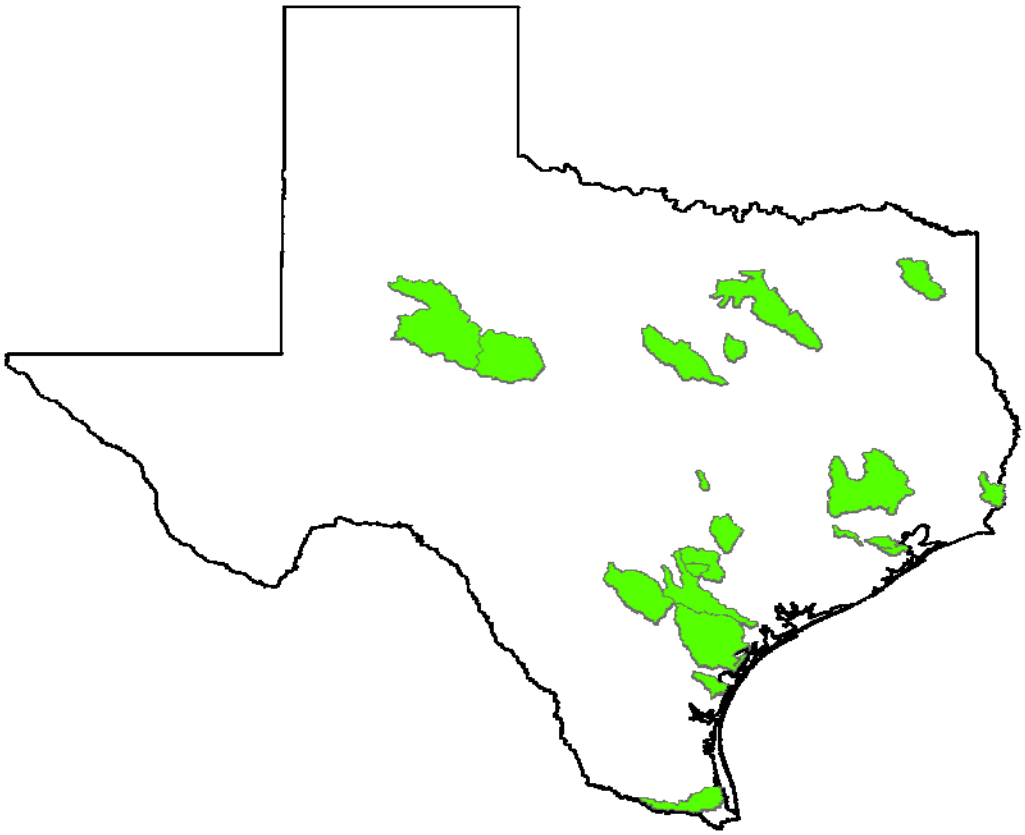
- identification of water body, pollutant of concern, pollutant sources, and priority ranking
- applicable water quality standards and numeric targets
- public participation
- loading capacity
- load allocations (LAs)
- waste load allocations (WLAs)
- margin of safety (MOS)
- seasonal variation
- reasonable assurances of implementation
- technical analysis/supporting documentation

Further, under federal regulations in 40 CFR 130.6, TMDLs must be included in the state's water quality management plan (not to be confused with the TSSWCB's Water Quality Management Plan (WQMP) Program). The WQMP is a waste treatment management plan developed and updated in accordance with CWA §§205(j), 208 and 303. Elements contained in the WQMP include effluent limitations of wastewater facilities, TMDLs, NPS management controls, identification of designated management agencies, and groundwater and source water protection planning. Consequently, the TCEQ will ensure that the state's continuing planning process requirements and other procedural requirements for adopting TMDLs and updating the WQMP are followed throughout review of a TMDL. The TCEQ updates the WQMP quarterly.

TSSWCB is engaged in implementation activities that support approved I-Plans addressing agricultural or silvicultural NPS load reductions described in adopted TMDLs; collaborating with stakeholders on the development of I-Plans for adopted TMDLs that contain agricultural or silvicultural NPS load reductions; and, actively engaged in the development of TMDLs for waterbodies impaired due to known or suspected agricultural or silvicultural NPS pollution. TSSWCB is committed to funding and collaborating on TMDL projects encompassing monitoring, assessment, modeling, planning, education, and implementation. TSSWCB funded activities are mitigating bacteria, atrazine, dissolved oxygen, phosphorus and salinity impairments through TMDLs and I-Plans.

- Aquilla Reservoir – Atrazine
- Arroyo Colorado – Dissolved Oxygen
- North Bosque River – Nutrients
- Colorado River below E.V. Spence Reservoir – Salinity
- Galveston Bay (oyster waters) – Bacteria
- Gilleland Creek – Bacteria
- Houston, Lake – Bacteria
- Lake O' the Pines – Dissolved Oxygen
- Lower San Antonio River – Bacteria
- E.V. Spence Reservoir – Salinity

- Upper Trinity River – Bacteria
- Adams and Cow Bayous – Dissolved Oxygen, pH, Bacteria
- Atascosa River – Bacteria
- Clear Creek – Bacteria
- Copano Bay and Aransas and Mission Rivers – Bacteria
- Dickinson Bayou – Bacteria and Dissolved Oxygen
- Elm and Sandies Creeks – Bacteria and Dissolved Oxygen
- Oso Bay and Creek – Bacteria
- Peach Creek – Bacteria
- Upper Oyster Creek – Dissolved Oxygen and Bacteria



In order to abate agricultural and silvicultural NPS pollution, TMDLs and I-Plans will implement components of other TSSWCB Programs, such as the WQMP Program or the Water Supply Enhancement Program (described in detail at…). Additionally, the TSSWCB NPS Grant Program (described in Section 7) frequently serves as a funding source to implement the agricultural and silvicultural NPS components of I-Plans.

The TSSWCB maintains a website for the TMDL Program at http://www.tsswcb.state.tx.us/tmdl. General information on TMDLs is provided, as well as, program policy and technical guidance documents.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

TMDLs must contain reasonable assurances for implementation and I-Plans contain a schedule of implementation activities. So, each TMDL, once developed and being implemented, can provide evidence (statistics and performance measures) that shows the effectiveness and efficiency of the TMDL Program as a whole. However, many of the first TMDLs adopted by TCEQ were for legacy pollutants, such as DDT or chlordane; therefore, restoration will be a long-term process counted by decades. And many of the more recently adopted TMDLs are for bacteria and the associated I-Plans have not yet been completed. As TMDLs move progressively deeper into implementing water quality improvement strategies, there will be a better ability to evaluate the effectiveness and efficiency of the WPP Program as a whole through the examination of each WPP's criteria and milestones.

The vast majority of water quality impairments on the 303(d) List are likely due to a diverse array of nonpoint sources and, as such, restoration will take significant, long-term efforts from all sectors (agriculture, industry, municipal, etc.). There is difficulty in achieving water quality restoration in general due to the expected lag time between implementation of BMPs and observation of expectant improvements in water quality due to factors, such as spatial and temporal variability in weather and the implementation of BMPs. These factors can confound detection of trends, particularly when dealing with relatively short periods of time and the diffuse nature of NPS water pollution. Additionally the Texas Water Quality Inventory and 303(d) List, the mechanism used to verify water quality restoration (and ultimately the effectiveness and efficiency of the TMDL Program as a whole) is updated biennially (consistent with the federal CWA). As TMDLs move progressively deeper into implementing water quality improvement strategies, there will be a better ability to evaluate the effectiveness and efficiency of the TMDL Program as a whole through the verification of water quality restoration and ultimate delisting from the 303(d) List.

Further, when monies from the NPS Grant Program are used to implement TMDLs, those individual scopes of work will have specific measures of success that can be used as evidence that shows the effectiveness and efficiency of the TMDL Program as a whole. Many of the NPS Grant Program scopes of work that are implementing components of TMDLs are currently on-going and it would be premature to assess their measures of success in the middle of the contractors executing the contracts.

Progress in implementing the Texas NPS Program through the Statewide NPS Grant Program is documented and tracked through several mechanisms. One reporting mechanism that is required to be completed each year to ensure continued federal funding from EPA is an annual report. The report highlights the State's efforts to collect data, assess water quality, implement projects that reduce or prevent NPS pollution, and educate and involve the public to improve and maintain the quality of water resources for current and future generations of Texans. When TMDLs address NPS pollution, the Annual Report highlights progress in achieving the load reductions in those TMDLs.

In October 2006, TCEQ released *Status Report: Implementing TMDLs in Texas*. The report highlights the progress of the State's TMDL Program activities to restore impaired surface waters in Texas through August 2005. The report includes environmental results, program management, and summaries of restoration projects being implemented. The report discusses TSSWCB-funded activities associated with 1) the Aquilla Reservoir TMDL for atrazine, 2) the E.V. Spence Reservoir TMDLs for salinity, and 3) the North Bosque River TMDLs for nutrients.

The chart below shows the number of TMDLs approved by EPA for Texas, by federal fiscal year (starts October 1 and ends September 30) [modified from http://iaspub.epa.gov/waters10/attains_index.control?p_area=TX#APRTMDLS]. What is evident in comparing the number of approved TMDLs (154) to the number of TMDLs remaining (838, based on the 2008 303(d) List), is that a significant amount of work is needed. It is important to note that not all of the TMDLs remaining to be developed will have an agricultural or silvicultural NPS component; therefore, TSSWCB involvement is not required for all 838.

Fiscal Year	Number of TMDLs Approved by EPA
2001	26
2002	2
2003	23
2004	8
2006	5
2007	35
2008	1
2009	54

The Nonpoint Source Success Stories are a mechanism used to track progress of the NPS Management Program and serve two main purposes. First, it offers an opportunity for states to highlight where their restoration efforts have resulted in water quality improvements in NPS-impaired waterbodies. Second, they allow EPA to track the number of NPS-impaired waterbodies that are partially or fully restored—which is a key measure in the effort to document how NPS restoration efforts are improving water quality on a segment basis across the nation. Recently, TSSWCB and TCEQ collaborated to develop a Success Story on the Aquilla Reservoir atrazine TMDL. EPA has published this success story at http://www.epa.gov/nps/Success319/state/tx_aquilla.htm. The Aquilla Success Story documents the water quality restoration activities, as implemented through the TSSWCB TMDL Program, which resulted in this waterbody being successfully removed from the states 303(d) List of Impaired Waters.

As described above, the TSSWCB and TCEQ publish an Annual Report on the Texas NPS Management Program that highlights specific activities and water quality restoration successes. Implementation of the E.V. Spence Reservoir salinity TMDLs has been highlighted in several of the most recent editions of the Annual Report; TSSWCB directed significant NPS Grant Program funds to implementing these TMDLs.

TCEQ recently published *Water Quality in the North and Upper North Bosque Rivers – February 2009: Status Report of Activities to Address Elevated Nutrient Concentrations*. This report provides a summary of water quality management activities in the watershed as well as resulting changes in water quality and interim progress in achieving restoration, in accordance with North Bosque River TMDLs for nutrients. TCEQ publishes this report at http://www.tceq.state.tx.us/implementation/water/tmdl/06-bosque.html#status. TSSWCB has and continues to direct significant NPS Grant Program funds to implementing these TMDLs.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution. Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972. These amendments provided another mechanism for addressing nonpoint source pollution through §303, requiring states to set ambient water quality standards for all waterbodies and identify the beneficial uses of each waterbody. In 1985 and 1992, EPA issued rules for implementing §303(d) under which States were required to identify those waters not meeting water quality standards; prioritize those waters; and set TMDLs for pollutants for each waterbody in order of priority.

In the 1970's and 1980's, EPA and the States focused on bringing point sources of pollution into compliance with NPDES requirements. Setting TMDLs for both point and nonpoint source pollution was viewed as an expensive and complicated process. The lack of widespread TMDL development was perceived by many groups around the country as a source of contention. As a result, a string of court cases filed in the early to mid-1990's, under the citizen suit provision of the CWA, forced EPA and the states to stop avoiding TMDL development and implementation. Although the State of Texas was not involved in litigation, the TCEQ committed itself in 1998 to developing TMDLs for all impaired waterbodies within 10 years of their first placement on the 303(d) List.

In 1993, the 73rd Texas Legislature passed Senate Bill 503 establishing the TSSWCB as the lead state agency for activity relating to abating agricultural and silvicultural NPS pollution. Upon passage of Senate Bill 503, the TSSWCB and the TCEQ began collaborating on the development and implementation of the Texas NPS Management Program. Ultimately Senate Bill 503 resulted in the TSSWCB collaborating with TCEQ on the development and implementation of TMDLs which had an agricultural or silvicultural NPS component. The 76th (1999) and 77th (2001) Texas Legislatures appropriated funds to the TCEQ and the TSSWCB to support the development of TMDLs.

Convened by EPA in 1996, the TMDL Federal Advisory Committee was comprised of 20 national members with diverse geographic, policy, and professional perspectives, including State and local governments, environmental groups, industry, agriculture, forestry, and academia. In 1998 the Federal Advisory Committee issued its report which contained recommendations of the Committee for improving the EPA TMDL program, a key Clean Water Act program. Many of the recommendations were adopted by EPA and passed down to the various State TMDL Programs. Information regarding the TMDL Federal Advisory Committee is available at http://www.epa.gov/owow/tmdl/advisory.html.

Friends of the Earth v. EPA, 446 F.3d 140 (D.C. Cir. 2006). In this case, plaintiffs challenged, among other issues, whether TMDLs for the Anacostia River must be expressed as a "daily" load rather than as annual or seasonal loads. On November 11, 2004, the district court granted summary judgment for EPA. On April 25, 2006, the D.C. Circuit Court of Appeals reversed with instructions to vacate, holding that TMDLs must be expressed as "daily" loads. On January 16, 2007, the U.S. Supreme Court declined to review the case. On November 15, 2006, EPA issued guidance recommending that all TMDLs include "daily" load calculations, *Establishing TMDL "Daily" Loads in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in Friends of the Earth, Inc. v. EPA, et al., No.05-5015, (April 25, 2006) and Implications for NPDES Permits*.

Friends of Pinto Creek v. EPA, 504 F.3d 1007 (9th Cir. 2007). On October 4, 2007, the 9th Circuit Court of Appeals ruled that EPA is prohibited from issuing a new NPDES permit for discharges into impaired

waters where a TMDL has been approved without first establishing a compliance schedule for other dischargers in the watershed to comply with the waste load allocation, even if the new discharge is offset by the elimination of an existing source upstream. On January 12, 2009, the U.S. Supreme Court declined to review the case. The ruling could force the agency to drastically change its approach to discharge permitting.

Conservation Law Foundation v. EPA. On October 28, 2008, the Conservation Law Foundation filed a complaint against EPA in district court in Vermont seeking a declaration that EPA's November 2002 approval of a TMDL for Lake Champlain was unlawful because the TMDL, among other things, fails to anticipate impacts due to climate change (changing weather patterns will affect the hydrology of waterbodies thereby impacting the analysis of pollutant loadings). Plaintiff seeks an order setting aside EPA's approval of the TMDL and calling for establishment of a new TMDL. If the court recognizes a deficiency in the TMDL regarding anticipated impacts due to climate change and the order is granted and any subsequent appeals uphold that order, this court case is likely to have significant and far reaching impacts on the TMDL Program nationally.

Task Force on Bacteria TMDLs

The TSSWCB and TCEQ established a joint technical Task Force on Bacteria TMDLs on September 27, 2006. The agencies charged the Task Force with examining the approaches other states have used to develop and implement bacteria TMDLs, recommending cost-effective and time-efficient methods for developing bacteria TMDLs, recommending effective approaches for developing TMDL I-Plans, and evaluating the variety of models and bacterial source tracking (BST) methods available for developing TMDLs and I-Plans. In addition to charging the task force with recommending the specific conditions under which certain methods would be more appropriate, the group was also asked to provide a roadmap for further scientific research needed to reduce uncertainty about how bacteria behave under different water conditions in Texas.

Members of the Task Force were Drs. Allan Jones (Texas Water Resources Institute), George DiGiovanni (Texas AgriLife Research–El Paso), Larry Hauck (Texas Institute for Applied Environmental Research), Joanna Mott (Texas A&M University–Corpus Christi), Hanadi Rifai (University of Houston), Raghavan Srinivasan (Texas A&M University), and George Ward (University of Texas at Austin). The Task Force, and approximately 50 Expert Advisors, consisting of university scientists, environmental consultants and representatives of local, state and federal agencies with jurisdictions impacting bacteria and water quality, held three meetings/teleconferences to develop the Report. All Task Force materials and documents are available at http://twri.tamu.edu/bacteriatmdl/. The final June 4, 2007 version of the Report is published as *Bacteria Total Maximum Daily Load Task Force Final Report* (Jones, et. al., TR-341, 2009, Texas Water Resources Institute – Texas A&M AgriLife)

On June 29, the Board and Commission approved the recommendations from the Task Force as described in the 4th draft of the Report; specifically, the Board adopted the principles and general process recommended by the Task Force. Several letters of support for the Task Force recommendations were received including letters from Texas Agriculture Commissioner Staples, Texas Farm Bureau, and Texas and Southwestern Cattle Raisers Association.

The Task Force recommended the use of a Three-Tier Approach for bacteria TMDL and I-Plan development that is designed to be cost-effective, time-efficient, scientifically credible and accountable to watershed stakeholders. The Tiers move through increasingly aggressive levels of data collection and analysis in order to achieve stakeholder consensus on needed load reductions and strategies to achieve

those reductions. The Three-Tier Approach included specific recommendations on the use of computer modeling and bacterial source tracking (BST).

The Board directed TSSWCB staff to work with the staff of the TCEQ to 1) incorporate the principles of the recommendations into an updated joint-agency TMDL guidance document and 2) move diligently to expedite the development of bacteria TMDLs that were paused during the work of the Task Force, and 3) establish a multi-agency bacteria work group to continue examining the scientific research and development needs identified in the Task Force Report.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

EPA policy requires the State to ensure "full and meaningful" public participation in the development of TMDLs. EPA guidance states that a properly developed TMDL program will broaden opportunities for public participation. This guidance requires states to provide for adequate public involvement throughout the program. Since this guidance does not specify requirements for what constitutes "adequate participation," each state has the opportunity to develop one or more locally appropriate approaches.

The TCEQ and the TSSWCB have defined, and maintain, a process for public participation that meets that goal. Commitment by the citizens who live and work in a watershed is essential to success in reducing the pollutant loads and improving water quality as prescribed by a TMDL and its I-Plan. To achieve collaboration with and among stakeholders, it is critical they share in the decision making for the project. Stakeholders provide direct advice and innovation in planning a TMDL project, collecting data, setting the water quality target, allocating pollutant loads, developing an I-Plan and putting that plan into action. Further, this public stakeholder process fosters agreement on what is deemed legally and scientifically defensible for a TMDL.

Federal regulations [40 CFR Section 130.7(a)] require that the state's process for involving the public in establishing the loading allocation, submitting loading allocations to the EPA, and incorporating these loads into the state's water quality management plan (not to be confused with the TSSWCB WQMP Program) and permits be described in a document called the state's continuing planning process. All adopted TMDLs must be included in the state Water Quality Management Plan [40 CFR Section 130.6(c)(1)]. When revising the WQMP, the TCEQ follows the public participation requirements of 40 CFR Part 25 as well as applicable state law (TWC Section 26.036 and 26.037).

TSSWCB works with its contractors to cast as wide a net as possible to secure the involvement of a diverse group of decision-makers for each TMDL being developed. The TMDL Program has no qualifications or eligibility requirements except that the individual or entity must have a demonstrated "stake" in managing the water resources covered under that TMDL. Balanced representation means that the members of a stakeholder group, as a whole, represent diverse viewpoints on the issues to be discussed. Some characteristics to consider in achieving balanced representation include:

- geography
- business (different sizes and types)
- government agencies (different sizes and authority levels)
- local SWCDs
- individual farmers and ranchers
- trade groups, associations, or organizations

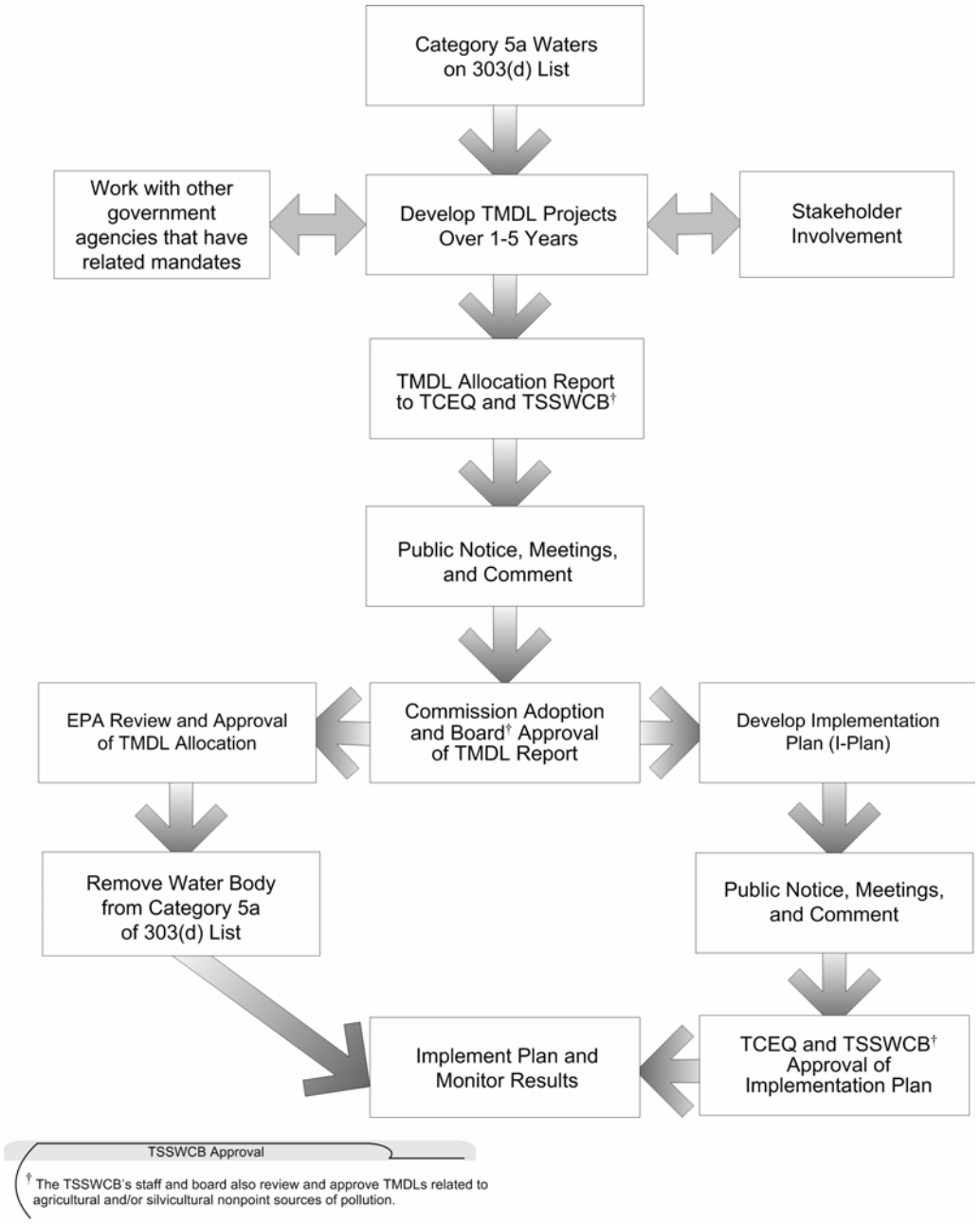
- advocacy groups or associations
- consumer and public interest groups
- industries or occupations regulated or directly affected by TCEQ

As the lead agency in the state for overall water quality management, the TCEQ is responsible for the final adoption of TMDLs (developed by any entity). As such, the TCEQ must publish all proposed TMDLs for a formal public review prior to submittal to the EPA for their approval. In accordance with the MOA between the TCEQ and the TSSWCB, the State Board will consider taking action on (i.e., approving) TMDLs and I-Plans with significant agricultural or silvicultural NPS components.

After a specific TMDL is adopted and its associated I-Plan is developed, the process moves to implementation expanding the spectrum of affected persons and entities. In order to conduct an effective and efficient planning process, frequently only key decision makers representing the diversity of stakeholder "categories" are involved in developing the TMDL. It is then through implementation of strategies, BMPs, and education programs called for in TMDL I-Plans, that many more individuals and entities are "affected" by the TMDL Program. For example, either directly by accepting cost-share offered by TSSWCB to implement some particular BMP to abate agricultural NPS or indirectly because a citizen read a newspaper article or brochure that discussed a water quality issue.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The TMDL Program falls under the guidelines established in the Texas NPS Management Program. The following diagram depicts how the TSSWCB and TCEQ jointly develop and implement TMDLs.



TMDLs must be developed using a rigorous process of data collection and analysis in concert with stakeholder involvement. TSSWCB is involved in the development of a TMDL whenever agricultural or

silvicultural NPS pollution contributes to the impairment. Further, the TSSWCB will take the lead in the development of TMDLs on waterbodies in which nonpoint sources of pollution from agriculture or silviculture are thought to be the sole contribution to an impairment.

As mentioned in Question B, TSSWCB is committed to funding and collaborating on TMDL projects encompassing monitoring, assessment, modeling, planning, education, and implementation through the NPS Grant Program. TSSWCB funded activities are mitigating bacteria, atrazine, dissolved oxygen, phosphorus and salinity impairments through TMDLs and I-Plans.

Additionally, Statewide Resource Management (SRM) staff provide technical guidance in developing TMDLs and I-Plans which are funded and facilitated by other entities, such as TCEQ, contractors, local stakeholder groups. SRM staff provide interpretation of EPA Guidelines, issue direction on satisfying the required components of TMDLs, provide guidance on the use of technical tools (such as computer modeling) to develop TMDLs, ,and facilitate adequate stakeholder involvement in the process.

The SRM staff responsibilities associated with the TMDL Program are:

- Overall integration of the TMDL Program with other TSSWCB Programs and functions and coordination with other agencies' programs
- Ensuring TMDLs address State water quality priorities as described in the *Texas NPS Management Program*
- Ensuring TMDLs are technically sound and satisfy the required components
- Provides guidance on TMDLs that have coastal management issues and or groundwater issues
- Assures quality assurance and quality control mechanisms are in place to ensure data that is collected and analyzed during the development of TMDLs is done in a scientifically sound and defensible manner
- When TSSWCB NPS Grant Program monies are provided to contractors for the development and implementation of TMDLs, performs specific project management tasks to ensure tasks in contracts are completed as specified and deliverables are provided on schedule
- Ensures the involvement of SWCDs in the development and implementation of TMDLs

Note that SRM Group staff engaged in the TMDL Program are so engaged as a function of their attachment to the overall Texas NPS Management Program. No SRM Group staff are dedicated solely and completely to the administration of the TMDL Program.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB NPS Grant Program serves as a funding source to develop TMDLs and I-Plans. Further, in order to abate agricultural and silvicultural NPS pollution, I-Plans will implement components of other TSSWCB Programs, such as the Water Quality Management Plan Program or the Water Supply Enhancement Program (described in Section 7). Additionally, the TSSWCB NPS Grant Program (described in Section 7) serves as a funding source to implement the agricultural and silvicultural NPS components of I-Plans.

As such, there are no specific amounts dedicated solely to the TMDL Program. Nor are there any funding formulas or conventions, except that, as described in Question D, the EPA 319 Guidelines require that the State only expend incremental funds (approximately half of the annual Congressional appropriation) on restoring water quality of impaired waterbodies.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Responsibility to develop and implement TMDLs is shard between two State agencies: the TSSWCB and the TCEQ.

The TCEQ has general jurisdiction and primary responsibility over Texas' water quality program including water quality management planning, the issuance of permits for point source discharges, abatement of nonpoint source pollution other than from agricultural and silvicultural sources, and enforcement of water quality rules, standards, orders, and permits. The TCEQ is responsible for establishing the level of quality to be maintained in, and controlling the quality of, water in the state.

With authority as the lead agency in Texas for planning, implementing, and managing programs and practices for preventing and abating agricultural and silvicultural nonpoint source pollution, TSSWCB is a fundamental partner with TCEQ in the Texas TMDL Program. TSSWCB is committed to funding and collaborating with TCEQ on TMDL projects encompassing monitoring, assessment, modeling, planning, education and implementation.

The TMDL Program and the WPP Program appear to have similar functions. As described in the WPP Program (Section 7), WPPs holistically address all sources and causes of water quality impairment or concern and may even address unimpaired from a proactive approach. On the other hand EPA regulations require the state to complete a TMDL for each pollutant that impairs each designated use assigned to each particular water body. Further TMDLs are specifically mandated by the CWA whereas WPPs stimulate only from EPA's 319 grant guidance.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TSSWCB and TCEQ have entered into a memorandum of understanding (MOU) [30 TAC 7.102] and a separate memorandum of agreement (MOA) which are available in the Attachments Section of this SER under "other." The MOU sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs. The TSSWCB and the TCEQ approved a revised Memorandum of Agreement on Total Maximum Daily Loads, Implementation Plans, and Watershed Protection Plans. This framework for collaboration between the two agencies clarifies and strengthens the programmatic mechanisms employed to develop and implement WPPs.

In addition to joint meetings generally held once per biennium between the State Board of the TSSWCB and the Commissioners of the TCEQ, the appropriate staff of the TSSWCB, TCEQ, and the EPA meet frequently to ensure the Texas NPS Program is consistent with federal requirements. Additionally,

TSSWCB and TCEQ management meet regularly to coordinate program policy and direction and to discuss progress on individual TMDLs.

If TMDLs for a particular waterbody are developed and adopted, it is up to TSSWCB, through the provision of technical assistance to stakeholder groups, to provide the leadership to ensure those TMDLs are appropriately integrated into the development of a WPP for the watershed.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Many state agencies and universities support the TMDL process by sharing data, information, and analyses, and coordinating development and implementation of TMDLs that address water quality in their areas of responsibility. The TSSWCB most commonly cooperates with the following state agencies and university organizations in the development of TMDLs.

The TCEQ is the lead agency in the state for overall water quality management, their responsibilities associated with NPS water quality pollution must be restricted to non-agricultural and non-silvicultural sources. The TSSWCB was designated by the Legislature as the lead agency pertaining to agricultural and silvicultural NPS pollution. The MOA described above in question I outlines the coordination between TCEQ and TSSWCB for the TMDL Program.

Because TSSWCB is only involved in TMDLs that have a significant agricultural or silvicultural NPS component, the involvement of local SWCDs is always paramount. TSSWCB SRM staff, in concert with TSSWCB Field Representatives, ensure the active engagement of the state's 216 individual local SWCDs on a regular basis in the TMDL process. Further, SWCDs also serve as contracted entities implementing activities identified in specific TMDL I-Plans.

Due to the nature of NPS pollution, the TSSWCB also regularly engages in mutual efforts with the United States Department of Agriculture – Natural Resources Conservation Service (NRCS). The TSSWCB, SWCDs, and NRCS have several longstanding memorandums of agreement in place to administer a "conservation partnership." All three entities have the voluntary conservation of soil and water resources as part of their core mission. The presence of the partnership has enabled the State to maintain a fairly small state conservation agency staff when compared to many other state agencies that do not have a federal counterpart with common goals and objectives. NRCS provides significant amounts of financial assistance to farmers and ranchers through federal Farm Bill programs such as the Environmental Quality Incentives Program (EQIP), where local SWCDs help them establish local resource conservation priorities; these federal Farm Bill program priorities frequently compliment the priorities and implementation strategies identified in specific TMDL I-Plans. TSSCWB leverages NPS Grant Program funds with Farm Bill funds by funding technical assistance in to implement I-Plans where Farm Bill programs provide financial assistance to agricultural producers to implement BMPs in accordance with a I-Plan.

As previously discussed, the basis for the TMDL Program stems from the CWA. As such TSSWCB coordinates with EPA at all stages of developing and implementing TMDLs. EPA has also developed a wide variety of funding, planning, and education programs that are effective in protecting environmental quality and furthering the development of TMDLs.

The U.S. Geological Survey (USGS) has the principal responsibility within the Federal Government to provide the hydrologic information and understanding needed by others to achieve the best use and

management of the Nation's water resources. USGS data is frequently used to help prioritize water quality protection and restoration activities identified in specific TMDL and I-Plans. USGS also serves as a contracted entity funded through the NPS Grant Program to collect water quality data to be used in the development of TMDLs and I-Plans.

The TSSWCB also interacts with county governments; many times county judges or commissioners, to participate as stakeholders in the TMDL process.

The TSSWCB also utilizes the resources and expertise of CRP Partners (Texas river authorities and municipal water districts) for activities such as stakeholder group development and coordination and water quality monitoring. Through CRP these entities collect the bulk of the data used in the 303(d) and 305(b) assessment report. These groups also serve as contracted entities for the development of TMDLs and I-Plans funded through the NPS Grant Program.

The Texas Department of Agriculture (TDA) is a state agency that is charged with addressing broad scale agricultural issues such as rural economic development, food and nutrition programs, marketing and promoting Texas agricultural products around the globe, regulating pesticide usage, and other regulatory programs that pertain to agriculture. TDA is a critical partner in the TMDL Program and they help provide leadership in individual watersheds by engaging stakeholders.

The land grant university system was established nationally to focus on the teaching of agriculture, science and engineering as a response to the industrial revolution. In Texas the various agencies and institutes of The Texas A&M University System, such as Texas AgriLife Extension Service, Texas AgriLife Research, Texas Water Resources Institute, Texas Institute for Applied Environmental Research and the Texas Forest Service, share common agricultural goals and natural resource objectives as the TSSWCB TMDL Program. These groups frequently serve as contracted entities for the development and implementation of TMDLs and I-Plans funded through the NPS Grant Program.

All of the agencies mentioned above, and others, share responsibilities related to natural resources in Texas. These agencies have built formal and informal agreements and partnerships to ensure duplication of efforts does not occur and that financial and personnel resources are maximized to the greatest extent. In every situation, it is a goal of these agencies to maintain a productive working relationship between both their policy making bodies and their respective staffs.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

As described in Question G, all contracted expenditures associated with the TMDL Program are made through the TSSWCB NPS Grant Program. The NPS Grant Program serves as a funding source to both develop TMDLs and I-Plans and implement the agricultural and silvicultural NPS components of TMDL I-Plans. Specific answers to Question K regarding purpose of contracts and accountability methods are provided in the NPS Grant Program section of this SER.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Texas NPS Management Program, as required by EPA to be revised every 5 years and approved by the TSSWCB, TCEQ, the Governor, and EPA provides an adequate basis for the Program. From the Governor's December 15, 2005 submission letter to EPA, "The document has been certified by the Attorney General's Office and by the TCEQ's chief legal counsel as to the adequacy of state laws for enacting the measures laid in the plan." Due to the dynamic nature of the program the current public process used to revise the program every five years provides an adequate mechanism to adjust the program's goals and objectives in accordance with statutory priorities. The Texas NPS Management Program provides more than adequate goals, objectives and priorities to direct the development and implementation of TMDLs and I-Plans through the TSSWCB's TMDL Program. The CWA §303(d) and EPA's implementing regulations provides key federal guidance to the Texas TMDL Program.

EPA TMDL guidance requires that the state provide reasonable assurances of implementation for surface waters impaired by both point and nonpoint sources. This section of the TMDL describes the program and strategies that will be used to implement the TMDL. The TSSWCB's authority for managing programs and practices for the abatement of agricultural and silvicultural NPS pollution as granted by the Legislature through SB503 in 1993 provides the legal foundation for reasonably assuring the implementation of the voluntary incentive based WQMP Program in TMDL waterbodies.

Therefore no changes are recommended.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Aspects of the State TMDL Program related to TCEQ and their permitted entities are regulatory in nature. However, all aspects of the TMDL program administered by the TSSWCB (agricultural/silvicultural NPS) are non-regulatory.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Aspects of the State TMDL Program related to TCEQ and their permitted entities are regulatory in nature. However, all aspects of the TMDL program administered by the TSSWCB (agricultural/silvicultural NPS) are non-regulatory.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Texas Groundwater Protection Committee Function
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer Donna Long, Statewide Programs Quality Assurance Officer
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Legislature created the Texas Groundwater Protection Committee (TGPC) in 1989 to bridge gaps and improve coordination among existing state water and waste regulatory programs. [State law Texas Water Code (TWC), 26.401—26.407] established the TGPC and outlined its powers, duties, and responsibilities. The Legislature also established a policy of nondegradation of the State's groundwater resources as the goal for all state programs. The State's groundwater protection policy recognizes:

- The variability of the State's aquifers in their potential for beneficial use and susceptibility to contamination;
- The value of protecting and maintaining present and potentially usable groundwater supplies;
- The need for keeping present and potential groundwater supplies reasonably free of contaminants for the protection of the environment and public health and welfare; and
- The importance of existing and potential uses of groundwater supplies to the economic health of the State.

The TGPC implements this policy by identifying opportunities to improve existing groundwater quality programs and promote coordination among agencies. The TGPC identifies areas where new or existing programs can be enhanced to provide additional protection.

The major responsibilities of the TGPC are:

- Improve coordination among member agencies and organizations engaged in groundwater protection activities;
- Develop, implement, and update a comprehensive groundwater protection strategy for the State;

- Study, and recommend to the Legislature, groundwater protection programs for each area in which groundwater is not protected by current regulation;
- File, with the Governor, Lieutenant Governor, and Speaker of the House of Representatives, a biennial report of the TGPC's activities and any recommendations for legislation for groundwater protection;
- Publish an annual groundwater monitoring and contamination report describing the current monitoring programs of each member agency and the status of groundwater contamination cases documented or under enforcement during the calendar year; and
- Advise the TCEQ on the development of plans for the protection and enhancement of groundwater quality pursuant to federal statute, regulation, or policy, including management plans for the prevention of water pollution by agriculture chemicals and agents.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The TGPC is a multi-agency committee set up by the Legislature to address nonpoint source groundwater contamination and protection of the resource. The Committee is reviewed by the Legislature every biennium to assess it's effectiveness in how the TGPC implements and coordinates projects and administrative requirements that address:

- the TGPC Strategy,
- Groundwater Data Management activities,
- Nonpoint Source Pollution activities,
- Public Outreach and Education activities,
- Groundwater Research activities,
- Intergovernmental Cooperation activities, and
- TGPC Administrative activities.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Legislature charged the TGPC with developing and updating a comprehensive groundwater protection strategy for the State that includes guidelines for the prevention of contamination and for the conservation of groundwater, and provides for the coordination of the groundwater protection activities of the agencies represented on the TGPC.

With the continuing State focus on the need for assuring a high quality supply of groundwater, and recognizing the programmatic changes that have occurred since the State's first groundwater protection strategy was developed in 1988, the TGPC decided in January 2001 to update the State's groundwater strategy. The TGPC issued the revised Strategy in February 2003.

A key part of the revised Strategy documents how the current regulatory, outreach, and research programs work to protect groundwater resources. A second component of the revised Strategy is the identification of protection gaps in program implementation of coordination. The TGPC Strategy sets realistic objectives for success and provides a road map for action over the next five to fifteen years.

The TGPC Strategy:

- Details the State's groundwater protection goal as established by the Legislature;
- Explains the State's efforts to characterize the occurrence, quality, and quantity of groundwater resources and discusses various assessment approaches used in program implementation;
- Describes the roles and responsibilities of the various State agencies involved in groundwater protection and discusses the TGPC as a coordinating mechanism;
- Provides examples of how the various State agencies implement groundwater protection programs through regulatory and not-regulatory models;
- Explains how local, state, and federal agencies coordinate management of groundwater data for the enhancement of groundwater protection;
- Discusses the role that research plays in understanding groundwater's importance and the importance of coordinating research efforts;
- Provides an overview of groundwater public education efforts in the State;
- Discusses public participation in establishing and implementing groundwater policy;
- Lays out a planning process for updating the TGPC Strategy;
- Proposes, for inclusion in the next Strategy, an identification and ranking of significant threats to the State's groundwater resources, consideration of the vulnerability of groundwater resources to such threats, and a prioritization of actions to address those threats' and
- Provides recommendations and possible actions to protect groundwater.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Working with other governmental agencies is inherent in a multi-agency Committee that is set up, mandated, and routinely reviewed by the Legislature. It is not possible to list all the various local, regional, and federal units of government that each of the agency-members within TGPC coordinates or does business with. This Committee is designed to coordinate on groundwater issues statewide

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

State law designated the Texas Commission on Environmental Quality (TCEQ) as the lead agency, with the Executive Director designated as the TGPC's chairman. The Executive Administrator of the Texas Water Development Board (TWDB) is designated as the TGPC's vice chairman. Members of the TGPC are:

- Executive Director of the Texas Commission on Environmental Quality (TCEQ);
- Executive Administrator of the Texas Water Development Board (TWDB);
- Executive Director of the Railroad Commission of Texas (RRC); Commissioner of Health of the Department of State Health Services (DSHS);
- Deputy Commissioner of the Texas Deprtment of Agriculture (TDA);
- Executive Director of the Texas State Soil and Water Conservation Board (TSSWCB);
- Representative selected by the Texas Alliance of Groundwater Districts (TAGD);
- Director of Texas AgriLife Research;

- Director of the Bureau of Economic Geology of the University of Texas at Austin (UT-BEG)
- Representative of the Water Well Drillers and Water Well Pump Installers program at the Texas Department of Licensing and Registration (TDLR)

All members may designate a staff representative to the TGPC.

The TCEQ, through the administration of the majority of the State's environmental and water quality regulatory programs, is primarily responsible for protecting groundwater quality. In addition, groundwater quality regulatory or quasi-regulatory programs exist at the Railroad Commission of Texas (oil and gas production and surface mining); the TDA (pesticide use); the DSHS (water resource protection); the TSSWCB (agricultural and silvicultural NPS pollution); and the TDLR (water well construction).

The TWDB collects and maintains water resource information; conducts statewide water planning; and administers financial assistance programs for water supply, water quality, flood control, and agricultural water conservation districts. The TAGD, as a non-governmental organization, has no regulatory or enforcement authority. However, Groundwater Conservation Districts (GCDs) that participate in TAGD have authority over groundwater use and contamination. Texas AgriLife Research and the UT-BEG conduct research activities related to groundwater protection.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB does not receive funding for participating on the Texas Groundwater Protection Committee.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

NA

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Working with other governmental agencies is inherent in a multi-agency Committee that is set up, mandated, and routinely reviewed by the Legislature. It is not possible to list all the various local,

regional, and federal units of government that each of the agency-members within TGPC coordinates or does business with. This Committee is designed to coordinate on groundwater issues statewide.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Legislative review is conducted and appropriate statutory changes for this Committee are considered during each biennium session.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Rules regarding the Texas Groundwater Protection Committee are found in Texas Administrative Code: Title 31, Part 18, Chapter 601, in Subchapter A and B.

The complete TGPC Strategy and other publications/reports are located on the Publication page of the TGPC website: http://www.tgpc.state.tx.us/Publications.htm

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The State's groundwater protection policy ensures that discharges of pollutants, disposal of wastes, and other regulated activities be conducted in a manner that will maintain current uses and not impair potential future uses of groundwater or pose a public health hazard. The use of best professional judgment by the responsible state agencies and deferment to their regulatory programs in attaining the goal and policy is recognized but not applicable to the TSSWCB role in the Groundwater Protection Committee.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Nonpoint Source Water Quality Complaint Resolution Function
Location/Division	Harlingen Regional Office [Regional Office Coordinator is located in Harlingen; administers statewide program from this location]
Contact Name	Andy Garza, Regional Office Coordinator [Technical]
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	FTEs included in totals for WQMP Program and Poultry WQMP Program descriptions

B. What is the objective of this program or function? Describe the major activities performed under this program.

Section 201.026(a), Agriculture Code, and Section 26.1311, Water Code, establish the Texas State Soil and Water Conservation Board (TSSWCB) and its authorized agents as responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source (NPS) pollution. Section 201.026(j), Agriculture Code, requires that complaints concerning a violation of a water quality management plan (WQMP) *(see program description for the WQMP Program)* or a violation of a law or rule relating to agricultural or silvicultural NPS pollution under the jurisdiction of the TSSWCB be referred to the TSSWCB. The TSSWCB, in cooperation with the local soil and water conservation district (SWCD), is required to investigate the complaint, and upon completion of the investigation, the TSSWCB, in consultation with the Soil and Water Conservation Districts (SWCD), is required to determine that further action is not warranted or must develop and implement a corrective action plan to address the complaint. If the subject of the complaint is not already a participant in the Water Quality Management Plan (WQMP) Program, then the development of a WQMP is generally the corrective action. If the subject of the complaint already participates in the WQMP Program, then modifications to the existing WQMP may be warranted, or the management activities of the participant are adjusted to compensate for the cause of the complaint. If the person about whom the complaint has been made fails or refuses to take corrective action, the TSSWCB is required to refer the complaint to the Texas Commission on Environmental Quality (TCEQ) for enforcement actions at their discretion. Section 201.027, Agriculture Code, requires the TSSWCB to maintain detailed records about each TSSWCB referral of an agricultural or silvicultural operation to the TCEQ for enforcement. These records must

include information regarding the final disposition of the referral by the TCEQ, including any enforcement action taken against the agricultural or silvicultural operation.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Texas State Soil and Water Conservation Board NPS Water Quality Complaints — Fiscal Years 2007 and 2008		
	FY 2007	**FY 2008**
Number of complaints received	20	100
Number of complaints resolved	20	100
Number of complaints dropped/found to be without merit	7	72
Number of complaints pending from prior years	1	1
Average time period for resolution of a complaint	21 days	12.73 days

Complaints pertaining to poultry operations not included here; see the individual program/function description for the Poultry WQMP Program for that information.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

This function was required by Senate Bill 503, 73rd Regular Session, as part of the designation of the TSSWCB as the lead agency in the state for the abatement of agricultural and silvicultural nonpoint source pollution. Only minor changes have been implemented since the initial legislation. As part of the agency's most recent continuation through the Sunset Advisory Commission, House Bill 2310 (77th Regular Session, 2001) amended Chapter 201, Agriculture Code, to include a requirement for the TSSWCB to notify the TCEQ within 10-days of decertifying a WQMP for an animal feeding operation. House Bill 2310 also created Section 201.027, Agriculture Code, which required the TSSWCB to maintain detailed records of each complaint referred to the TCEQ for possible enforcement action, and required the TSSWCB to maintain records pertaining to the final disposition of any action the TCEQ may have taken in response to the referral.

Through a letter of agreement, the TSSWCB and the TCEQ are cooperating on site inspections of dry-litter poultry operations that are using a TSSWCB-certified WQMP in order to forgo a water quality permit from the TCEQ. The letter of agreement was signed by the executive directors of both agencies in August 2007, and represents an arrangement that is intended to be included in the overall memorandum of understanding (MOU) between the two agencies which is currently under revision. Copies of the MOU and letter of agreement are included in the Attachments Section of this SER under "other." In accordance with TCEQ rules, poultry operations that meet the requirements of Section 26.303, Water Code, related to all poultry operations being required to have a TSSWCB-certified WQMP, are not required to obtain permit coverage from the TCEQ. The TSSWCB is performing site inspections on those dry-litter poultry facilities that are defined as concentrated animal feeding operations by state and federal law; the

TSSWCB reports the results of the inspections, in accordance with the letter of agreement, on a quarterly basis to the TCEQ.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

This function applies to any agricultural or silvicultural operation that is the subject of a nonpoint source water quality complaint, as well as any citizen of the state that may file the complaint. Through agreement between the TCEQ and TSSWCB, the function may also pertain to odor complaints on poultry operations in the state.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Regional offices of the TSSWCB receive complaints from the general public, as well as referred complaints from the TCEQ. Once a complaint is received or referred, personnel from the appropriate TSSWCB regional office responds to the complaint by contacting the complainant and the subject of the complaint. The TSSWCB, in cooperation with the local SWCD, then investigates the complaint, and upon completion of the investigation, the TSSWCB, in consultation with the SWCD, makes a determination that further action is not warranted or decides that a corrective action plan must be developed and implemented to address the complaint. If the subject of the complaint is not already a participant in the WQMP Program, then the development of a WQMP is generally the corrective action. If the subject of the complaint already participates in the WQMP Program, then modifications to the existing WQMP may be warranted, or the management activities of the participant are adjusted to compensate for the cause of the complaint. If the person about whom the complaint has been made fails or refuses to take corrective action, the TSSWCB refers the complaint to the TCEQ for enforcement actions at their discretion.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

All funding for this function's operations is included as part of the operating budget for the overall WQMP Program and the Poultry WQMP Program (see those program's individual descriptions).

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The TCEQ and the United State Environmental Protection Agency (EPA) perform similar functions for facilities that are regulated under their jurisdiction. The TSSWCB performs the function for facilities that fall within the agency's jurisdiction.

I. Discuss how the program or function is coordinating its activities to avoid duplication or

conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Sections 201.026 and 201.027, Agriculture Code, includes specific jurisdictions and responsibilities of the TSSWCB that relate to this function. The TCEQ and the TSSWCB have entered into a MOU that explicitly lays out how the two agencies coordinate their efforts. The EPA and TCEQ have separate agreements in place pertaining to complaint responses and delegated responsibilities associated with the Clean Water Act.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Coordination is required between the TSSWCB, SWCDs, TCEQ, and the EPA at varying levels depending on the nature of a specific water quality complaint. No other entities are involved unless they are the complainant or have a stake in the outcome of the investigation.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

The TSSWCB's Water Quality Complaint Resolution Function does not explicitly relate to regulated entities unless the result of an investigation determines that the subject of the complaint is defined as a concentrated animal feeding operation (CAFO). If the operation is determined to be a CAFO, or the executive director of the TCEQ designates the operation as a CAFO, the operation no longer meets the definition of an agricultural or silvicultural operation and is consequently no longer under the jurisdiction of the TSSWCB, except for dry-litter poultry CAFOs which have special consideration as described in the individual program/function description for the Poultry WQMP Program.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Water Quality Management Plan Program
Location/Division	Harlingen Regional Office [Regional Office Coordinator is located in Harlingen; administers statewide program from this location]
Contact Name	Andy Garza, Regional Office Coordinator [Technical] Kenny Zajicek, Fiscal Officer [HQ / Financial] John Foster, Statewide Programs Officer [HQ / Policy]
Actual Expenditures, FY 2008	$3,885,972.45
Number of FTEs as of August 31, 2008	25

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Water Quality Management Plan (WQMP) Program is administered by the Texas State Soil and Water Conservation Board (TSSWCB) through local soil and water conservation districts (SWCDs) for the purpose of providing a voluntary, incentive-based, natural resource conservation planning service to agricultural producers and other rural landowners who choose to implement best management practices (BMPs) that prevent, abate, and/or manage nonpoint source (NPS) pollution. The WQMP Program includes technical assistance for the development of WQMPs on the lands of participants as well as financial incentives in the form of cost-sharing payments to participants to assist with the installation of the WQMPs. The WQMP Program is the state's primary BMP implementation program for agricultural and silvicultural lands as specified in the Texas Nonpoint Source Management Program (Texas NPS Program).

The overall WQMP Program is supervised and administered by the agency's Regional Office Coordinator located in Harlingen. Cost-sharing administration is coordinated by the joint efforts of the Regional Office Coordinator, four other regional office managers, and the Fiscal Officer in the agency's headquarters. Policy and programmatic assistance is provided by the Statewide Programs Officer and other members of the Statewide Resource Management staff in the agency's headquarters. Regional offices used to administer the WQMP Program are located in Harlingen, Wharton, Mount Pleasant, Hale Center, and Dublin. A special needs program office for administering the WQMP program to poultry producers is located in Nacogdoches, where the Poultry WQMP Program is headquartered. Three other "single-person" offices are maintained in Gonzales, Center, and Centerville for poultry WQMPs. The Poultry WQMP Program includes additional requirements specified by statute, including a regulatory

requirement to obtain a WQMP, that exceed the normal program elements; more information on the Poultry WQMP Program is available in that program's individual description.

The WQMP Program involves a participant voluntarily requesting conservation planning assistance from the local SWCD within which the identified lands are located. Once a request is received from a participant, the SWCD arranges for technical conservation planning assistance. This technical assistance may be provided by an employee of the SWCD made possible through Conservation Implementation Assistance Grants from the TSSWCB (see the individual program description for more information on these grants). The technical assistance may also be provided by an employee of the TSSWCB located within the appropriate TSSWCB Regional Office, or by an employee of the United States Department of Agriculture – Natural Resources Conservation Service (NRCS) through a memorandum of understanding (MOU) among the NRCS, the TSSWCB, and all Texas SWCDs.

Once a WQMP has been developed through consultation between the landowner and the technical assistance provider, the SWCD makes a determination whether the WQMP covers the participant's entire operating unit as required by TSSWCB rule. Concurrently, the NRCS provides certification that the WQMP meets the technical standards and specifications within their Field Office Technical Guide (FOTG) for a resource management system. The TSSWCB has adopted the FOTG as the technical basis for a WQMP; it is the policy of the TSSWCB that the FOTG, when implemented to the resource management system level, represents the best available technology for abating NPS pollution on agricultural and silvicultural lands. When agreement is reached by the participant, the NRCS, and the SWCD that the WQMP meets all program requirements, a certification page is signed by all three parties. The WQMP is then forwarded to the appropriate TSSWCB Regional Office for certification, where an additional technical and programmatic review is conducted. Once certified by the TSSWCB, by law the WQMP is considered to meet all of the technical requirements for the agricultural or silvicultural operation to maintain compliance with Texas Surface Water Quality Standards as established and adopted by the Texas Commission on Environmental Quality (TCEQ).

When a WQMP has been certified by the TSSWCB, the participant is eligible for cost-sharing assistance toward the implementation of the BMPs contained within the WQMP. The TSSWCB annually allocates a specified amount of funding for this purpose to approximately 80 SWCDs (Texas currently has 216 individual SWCDs). These SWCDs are chosen due to their geographic location with respect to agricultural and silvicultural NPS water quality problem areas and priorities established by the TSSWCB every four years. If the WQMP is developed for a participant that is not located within one of the SWCDs that receives an allocation of cost-share funding, the participant and the SWCD may request that the WQMP receive funding through a separate "statewide" allocation of funding that is reserved by the TSSWCB for special needs.

Cost-sharing assistance is requested through an application. A cost-share application is completed by the participant and then submitted to the appropriate SWCD. Once a BMP that is listed on the cost-sharing application has been installed, the local SWCD, the NRCS, or staff from a TSSWCB Regional Office inspects the work to confirm the installation of the practice was performed in accordance with specifications within the FOTG. A performance certification document is completed and signed by the entity performing the verification, which then results in the cost-share payment being made by the TSSWCB to the participant.

Once a WQMP is in the process of being implemented, the participant is subject to periodic status reviews by the TSSWCB. A status review involves a site visit by an employee from the appropriate TSSWCB Regional Office or a representative of the SWCD. If a participant is found to have fallen behind schedule or has un-installed a required practice, then the participant is requested to correct the situation by

complying with the existing WQMP or by working with the TSSWCB to amend the WQMP to allow for unforeseen circumstances or complications. If cost-sharing assistance was provided for the installation of a BMP which has not been maintained in accordance with the expected lifespan for the BMP specified in the FOTG, then the participant may be asked to reimburse the TSSWCB for the cost of the BMP. If ultimate resolution is not reached to the extent that the TSSWCB rules for the WQMP Program are being met, then the WQMP may be decertified and the participant is no longer under the jurisdiction of the program and the status with respect to water quality authorization the program provides.

Agency personnel involved in the WQMP Program also coordinate a water quality complaint resolution process specified in statute. This process requires extensive coordination among the parties involved, the local SWCD, and the Texas Commission on Environmental Quality (TCEQ). Specific information on this process is available in the program description for the Water Quality Complaint Resolution Function.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Regional and site specific studies are periodically performed by the TSSWCB as "spot checks" on the effectiveness of WQMPs in controlled situations through computer modeling. The TSSWCB uses state and federal funding through its Statewide Nonpoint Source Grant Program to contract with academic and research institutions as well as other state and federal agencies for this assistance. Measuring the true effectiveness of one individual WQMP's impact on the environment is extremely difficult and extremely expensive, so performance measures associated with this program are based on numbers of WQMPs developed, rather than across-the-board estimates of pollutant load reductions. Without investing cost prohibitive amounts of funding, any mechanism used to estimate the program's effects on a statewide level would return results that were conjecture at best.

An example of one analysis of WQMP effectiveness that was completed in 2006 was performed by the Water Resources Assessment Team of the NRCS. The purpose of the study was to simulate atrazine and sediment loadings in the Lake Aquilla Watershed using the Soil and Water Assessment Tool (SWAT) hydrologic/water quality model. Three scenarios were modeled: (I.) baseline – pre-1999 condition; (II.) Best Management Practice (BMP) applications through WQMPs, and (III.) application of BMPs on all cropland.

The SWAT model was calibrated/validated to measured stream flow at a United State Geological Society (USGS) stream gage, and calibrated to measured sediment (TWDB hydrographic survey) in Lake Aquilla. Stream monitoring data was used to calibrate SWAT for atrazine loading. Time series plots and statistical measures were used to verify model predictions. The validated model was applied to evaluate the effects of various BMPs on three levels: farm level; subbasin level; and watershed level. The analysis was performed for the time period from 1974 through 2003. BMPs simulated with SWAT were terracing, contour farming, conservation tillage, conservation crop rotation, grassed waterways, conservation buffers, herbicide incorporation, pasture planting (conversion from cropland to pastureland) and farm-scale sediment basins.

Scenario II showed that BMPs at the farm level where they were implemented reduced atrazine loadings from 70 to 100 percent, and reduced sediment loadings from 79 to 98 percent. Scenario II showed that BMPs at the subbasin level reduced atrazine loadings from 2 to 67 percent, and reduced sediment loadings from less than 2 to 54 percent. Scenario II showed that BMPs at the watershed level reduced atrazine loadings into Aquilla reservoir by 6 percent and reduced sediment loadings by 3 percent.

Scenario III showed that BMPs at the subbasin level reduced atrazine loadings from 78 to 79 percent, and reduced sediment loadings from 71 to 89 percent. Scenario III showed that BMPs at the watershed level reduced atrazine loadings into Lake Aquilla by 78 percent, and reduced sediment loadings by 34 percent.

All simulations assumed the effectiveness of BMPs remained constant for the entire modeling period, and did not account for loss of capacity in BMPs due to sediment accumulation. Given these results, the development of WQMPs was determined to have been effective in reducing nonpoint source pollution at all levels, but the greatest benefit was at the farm level. The installation of the WQMPs, in coordination with the efforts of agricultural producers, other cost-share funding programs, and technical assistance to producers from multiple agencies resulted in meeting the TMDL Implementation Plan water quality goals in Lake Aquilla. The study concluded that good potential exists for further reducing atrazine and sediment concerns through continued development and implementation of WQMPs.

This study, and others like it, continue to serve as the justification for continued WQMP Program activities through the state, and assist the TSSWCB in determining the technical requirements for conservation practices that are included within WQMPs.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The WQMP Program was created in Section 201.026 of the Agriculture Code by Senate Bill 503 in 1993. The original legislation established the TSSWCB as the lead agency in the state for activity relating to abating agricultural and silvicultural NPS pollution, and placed a requirement on other state agencies engaged in NPS abatement programs to coordinate their activities with the TSSWCB. The original legislation also specified that the TSSWCB is responsible for representing the State of Texas before the Environmental Protection Agency (EPA) or other federal agencies on matters relating to agricultural or silvicultural NPS pollution. Additionally, Senate Bill 503 required the TSSWCB to identify areas of the State that have or have the potential to develop agricultural or silvicultural NPS water quality problems and address them through the WQMP Program. The legislation required the TSSWCB to adopt rules for the WQMP Program that included criteria that complied with state water quality standards, and specified that the TSSWCB must certify that each WQMP meets all of those requirements and standards.

Senate Bill 503 also established a water quality complaint resolution function. The legislation required that complaints concerning a violation of a WQMP or a violation of a law or rule relating to agricultural or silvicultural NPS pollution under the jurisdiction of the TSSWCB must be referred to the TSSWCB. The TSSWCB was required to complete an investigation of the complaint, and in consultation with the appropriate SWCD, either determine that further action was not warranted or that a corrective action plan needed to be developed in order to address the complaint. In cases where the person about whom the complaint was made failed or refused to take corrective action, the TSSWCB was required to refer the complaint to the TCEQ for possible enforcement action.

Senate Bill 503 also created the cost-share assistance program for soil and water conservation land improvement measures associated with the WQMP Program. The legislation included provisions applicable to the use of funds, employment and contracting of personnel, funding allocations to local SWCDs, the establishment of NPS priorities, eligibility requirements, local selection of priorities, application requirements, and application approval. Rates at which cost-sharing payments were to be made were provided in the legislation, as well as provisions relating to technical standards and specifications for WQMPs.

Perhaps the most substantive element of Senate Bill 503 pertained to the standing a participant in the WQMP Program obtained through the certification of a WQMP. The legislation modified the Water Code relating to discharges to waters in the State by specifying that certain discharges, when in accordance with a person's WQMP, were allowed by law.

In subsequent legislative sessions, Agriculture Code, Section 201.026 and 201.027 (related to water quality complaint resolution) have been significantly modified to increase coordination between the TSSWCB and TCEQ, addresses new statewide water quality concerns related to animal mortality, and to expand the utility of the program for the purpose of assisting the State in complying with federal water quality regulations. During the 75th Regular Legislative Session (1997), significant modifications were made to the Water Code by Senate Bill 1910 relating to ultimate disposition of poultry carcasses.

During the 77th Regular Legislative Session, House Bill 2310 (the TSSWCB's most recent Sunset Legislation) made numerous changes to the WQMP Program and its associated water quality complaint resolution function. The bill required the TSSWCB to establish goals, including the setting of priorities among voluntary efforts to reduce nonpoint source pollution and to assist the agricultural community information regarding the jurisdictions of the board and the TCEQ related to NPS pollution. The bill also required the TSSWCB to immediately notify TCEQ when the board decertifies a WQMP for an animal feeding operation and to update the TSSWCB's identification of priority areas for the control of NPS pollution at least every four years. The bill set forth provisions regarding the considerations of the TSSWCB for changes to identified priority areas (Sec. 201.026), and required the TSSWCB to maintain detailed records about each TSSWCB referral of a farming operation to TCEQ for enforcement, including information regarding final disposition by TCEQ (Sec. 201.027).

Also during the 77th Regular Legislative Session, Senate Bill 1339 introduced a regulatory element into the WQMP Program as it relates to poultry operations. Senate Bill 1339 instituted mandatory participation in the program for all poultry operations in the State by all new poultry facilities prior to the population of the farm with birds, and for all existing farms to comply with a schedule included in the legislation. While the legislation stated that all poultry facilities must participate in the program, it was later determined that the intent of the requirement was focused on those facilities not already required to obtain permit coverage from the TCEQ. Certain poultry facilities use liquid waste handing systems that are regulated by the TCEQ under the Texas Pollutant Discharge Elimination System (TPDES), which requires permitting through delegated federal authority from the EPA. As a result, only dry-litter poultry facilities, or those that do not use liquid waste handling systems were required to participate in the program. Aside from poultry operations, the WQMP Program remains a voluntary program administered for agricultural or silvicultural lands.

One final piece of legislation that impacted the WQMP Program during the 77th Regular Legislative Session was House Bill 3355, which specified that the TSSWCB may certify a WQMP, at the request of the landowner, for any agricultural or silvicultural land in the state. The bill also provided additional technical requirements relating to the burial of poultry carcasses, but prohibited the TCEQ from requiring a landowner who has a WQMP that includes technical specifications for proper burial from being required to record the location of burial in the county deed records.

During the 79th Regular Legislative Session (2005), Senate Bill 1707 was passed to expand the scope of the WQMP Program as it relates to poultry operations. In 2003, the EPA adopted changes to the federal regulations relating to the permitting of animal feeding operations (AFOs). According to the federal regulations, as well as the complementary TCEQ rules through delegation, any animal feeding operation (AFO) defined as a concentrated animal feeding operation (CAFO) was required to obtain permit coverage (AFOs were not). This portion of the revised federal regulations was ultimately vacated by the

U.S. Second Circuit Court of Appeals, forcing EPA to make the necessary revisions. TCEQ also made complementary revisions to the state rules that had been modified for consistency with EPA's initial federal regulation changes. While the requirement for a permit was eliminated, the designation as a CAFO remained for dry-litter poultry operations over a certain size. This meant that TCEQ still had a federally delegated responsibility to provide authorization for dry-litter poultry CAFOs to operate in the state, as well as a requirement to perform periodic site inspections to ensure compliance with law. It became clear to lawmakers and agencies that an efficient mechanism to carry out these duties was already in place as a result of Senate Bill 1339 passed during the 77th Regular Legislative Session. Since WQMPs were required for all poultry facilities, and the technical requirements for a WQMP paralleled those of the state CAFO rules, Senate Bill 1707 was passed to expand the scope of the WQMP from NPS to point source (PS) with regards to dry-litter poultry operations. Up to that point, it was common understanding among state and federal agencies that AFOs were considered NPS and CAFOs were considered PS. Because the WQMP Program was exclusively a NPS program, Senate Bill 1707 was needed to avail the benefits of the program to PS facilities (poultry facilities only however). In addition, the TCEQ made changes to the state CAFO rules to accommodate this mechanism, and the TSSWCB and TCEQ entered into a separate agreement that allowed the status reviews periodically performed on WQMP Program participants to be substituted for permit site inspection required by EPA. Both agencies conducted extensive coordination and training meetings to ensure the appropriate technical aspects of each site inspection were consistent with TCEQ requirements, and to implement a reporting process for the TSSWCB to transmit inspection data to TCEQ in a timeframe that accommodated their reporting needs to EPA.

During the 80th Regular Legislative Session (2007), two other pieces of legislation impacted the WQMP Program. House Bill 1457 made a technical correction to Section 26.303 by removing the allowance of cooking poultry carcasses for feeding to swine as a means of disposing of mortality. This practice had actually been prohibited by legislation in a previous legislative session, but this particular citation was overlooked by the original bill. This required changes to the guidance documentation for the WQMP Program, as well as updates to all existing Poultry WQMPs. House Bill 1457 also clarified that dead poultry could be kept onsite for longer than 72 hours so long as they were frozen or refrigerated. Also pertaining to poultry mortality burial, House Bill 1719 removed the requirement for a WQMP participant to notify TCEQ when the burial of a catastrophic die-off had occurred. Previous to this legislation, WQMP participants had been required by TCEQ rule to notify the appropriate TCEQ regional office.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The WQMP Program primarily affects the agricultural producers and other rural landowners that participate in the program. These include virtually all types of production agriculture operations such as row-crop farmers, cattle raisers, timber growers, dairy operations, poultry operations, and rice growers. Local, state, and federal agencies that are affected by the program include SWCDs, EPA, TCEQ, NRCS, Texas Water Development Board (TWDB), and many others. Anyone owning or operating an agricultural or silvicultural operation qualifies for participation in the WQMP Program.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The following information from the WQMP Program Reference Guide provides a detailed overview of how the program is administered.

WQMP DEVELOPMENT PROCESS

Problem Area Identification
On its own petition or on the petition of a soil and water conservation district (SWCD), the TSSWCB may designate an area as having the potential to develop agricultural or silvicultural nonpoint source (NPS) water pollution problems.

The TSSWCB identified AFOs as a potential problem statewide. All SWCDs can assist AFOs to develop Water Quality Management Plans (WQMPs).

The TSSWCB continually evaluates watersheds for inclusion as a priority area for all agricultural activities. Priority areas may be designated based on the following criteria:

- Data and information submitted by SWCDs
- Studies conducted by the TSSWCB or SWCDs
- Assessments, special studies and programs and research conducted relative to surface and underground water quality
- Guidelines developed and promulgated by the TSSWCB

The TSSWCB maintains a list of priority watersheds as a part of its management program activities. This list contains watersheds with the most severe agricultural/silvicultural NPS pollution concerns facing the state at any given time. Identification of priority watersheds is based on an assessment prepared by the State pursuant to the federal Clean Water Act(CWA), Sections 106, 303d, 305b, 314, and 319; the Coastal Zone Act Reauthorization Amendment (CZARA), Section 6217; the National Estuary Program; the Federal Insecticide, Fungicide and Rodenticide Act; the Texas Water Code, Section 26.0135; the Texas Clean Rivers Program and data and information collected or obtained by other local, state or federal government entities.

It is from the list of priority watersheds that water quality management program areas are identified. In addition, the designated "Coastal Management Zone" is also a program area for the TSSWCB. SWCDs with nonpoint source concerns that they would like to see addressed under the WQMP program should first work with the TSSWCB to assure their problems or concerns are identified as priority watersheds. Once a problem area is on the list of priority watersheds, it may be considered by the TSSWCB for inclusion into the WQMP cost-share program. SWCDs not included in a priority area are also eligible to request cost-share on a case-by-case, plan-by-plan basis by writing to the TSSWCB and requesting such assistance for each producer with a certified WQMP for eligible practices needed to implement the WQMP.

Allocation of Resources
Allocation of resources will be based on priority considerations. In allocating program resources, the TSSWCB will consider the following:

- Known Problems -- Where the TSSWCB has determined that adequate data show the existence of a water quality problem caused by agricultural or silvicultural nonpoint sources and in the state designated coastal management zone
- Potential Problems -- Where the TSSWCB has determined that the intensity and location of certain agricultural and silvicultural activities requires program implementation to prevent pollution problems caused by agricultural and silvicultural NPS activities
- Corrective Action Plans -- When the TSSWCB has determined that implementation of specific measures is necessary to abate a problem identified in a complaint investigation
- Economic impact on producers
- Benefits to water quality

Water Quality Management Plans Defined
A WQMP is a site-specific plan for agricultural or silvicultural lands developed through and approved by SWCDs. It includes appropriate land treatment practices, production practices, management measures, technologies or combinations thereof. The plan is to achieve a level of pollution prevention or abatement determined by the TSSWCB in consultation with the local SWCD to be consistent with state water quality standards. This will be achieved by developing and implementing plans to the Resource Management System (RMS) level as defined in the NRCS-Field Office Technical Guide (FOTG).

Process for Obtaining a Water Quality Management Plan
- A landowner or operator may request the development of a plan through his/her local SWCD
- The SWCD will determine the priority of plan development and subsequently cause the development and approval of the plan
- A landowner or operator may appeal SWCD decisions relative to practices and practice standards to the TSSWCB in the manner prescribed by the TSSWCB
- When approved, the SWCD submits the plan to the TSSWCB. The TSSWCB then certifies the plan if it is consistent with state water quality standards
- Producers following their certified WQMPs are considered compliant with state water quality laws

Establishment of Practice Standards
Practice Standards will be based on specific local conditions. Practice standards will be those included in the NRCS FOTG; however, modification of those practice standards to ensure consistency with state water quality standards and the Texas NPS Management Program will be made as necessary. Practice standards will be developed in conjunction with the local SWCD and with assistance and advice of the NRCS, Texas AgriLife Extension Service, Texas Forest Service (TFS), Texas Agricultural Experiment Station, TCEQ, any local underground water conservation district and others as determined to be needed by the TSSWCB.

Implementation Schedule
A WQMP must contain an implementation schedule. As far as practicable, it shall balance the State's need for protecting water quality with the need of agricultural and silvicultural producers to have sufficient time to implement practices in an economically feasible manner. Highest priority will be given to the implementation of the most cost effective and most needed pollution abatement practices. The

TSSWCB, in consultation with affected SWCDs, will conduct plan status reviews of the implementation of selected WQMPs.

Water Quality Standards
Development, approval, and certification of water quality management plans will be based on:

- Available Technology -- presented in the NRCS FOTG;
- Water Quality Standards -- established by TCEQ.

Requirements for WQMPs
Section 201.026, Agriculture Code, provides for the development and certification of WQMPs. These plans are site specific plans for agricultural or silvicultural lands which include appropriate land treatment practices, production practices, management measures, technologies or combinations thereof. When implemented they are to achieve a level of pollution prevention or abatement determined by the TSSWCB, in consultation with the local SWCD and TCEQ, to be consistent with state water quality standards. Conservation planning and implementation at the RMS level accomplishes this. To be certified, a WQMP must cover all lands that constitute an operating unit for agricultural or silvicultural purposes.

A WQMP must contain an implementation schedule. The legislature gave responsibility for this program to the TSSWCB and SWCDs, in part, because it wanted the implementation schedule, as far as is practicable, to balance the state's need for protecting water quality with the needs of agricultural and silvicultural producers to have sufficient time to implement practices in an economically feasible manner. No other entity is more qualified to make this determination than a SWCD. This places tremendous responsibility on SWCDs, because these types of decisions require judgment and local knowledge.

Consideration must be given to local conditions and economy and must place appropriate importance on protecting the state's water resources. TSSWCB policy requires that a WQMP cover an operating unit before it is eligible for certification. The intent of the TSSWCB is that, when a WQMP is certified and implemented, it will protect water quality to a degree consistent with the state's water quality standards. Certification by the TSSWCB affords the producer certain protections under state law in that it holds the same status as a discharge permit. It is important that certified WQMPs do what they are intended to do and protect water quality consistent with state standards. To do that, all unpermitted activities on an agricultural or silvicultural operation must be addressed. The term operating unit is used by the TSSWCB to assure that a farm or ranch with a certified plan is meeting the state's water quality requirements with all its activities. Therefore, the policy includes a requirement that a plan include the entire operating unit. There is an element of judgment involved in making determinations as to whether or not a plan covers an operating unit. Again, no other entity is better equipped to make such decisions than a SWCD. The SWCD confirms that a plan includes an operating unit with its approval of the plan. The SWCD should approve the operating unit when Request for Planning Assistance is approved.

Setting Priorities
The SWCD should establish priorities for water quality management planning assistance. In assigning priorities for plan development or plan modification, the law requires that water quality considerations are the primary factor in determining priorities. Priority assignments for water quality purposes should be included as part of the SWCD's ongoing priority determination for conservation programs within its boundaries and should address the TSSWCB determination of priority activities.

Request for Assistance

The first step in the water quality planning process is when a producer requests assistance from the SWCD to obtain a WQMP. The producer should fill out a "Request for Water Quality Management Planning Assistance," form *TSSWCB001. If the producer is not already a cooperator with the SWCD, a SWCD cooperator agreement should be executed at this time. The producer may also indicate interest in cost-share. Operations required to have a permit with TCEQ (CAFO's), other than dry-litter poultry, are not eligible for participation in the WQMP program.

Each request for planning assistance will be assigned a three-digit number representing the sequential order in which the planning requests are received. When a WQMP is developed, the plan will be numbered as follows:

- An eight digit number scheme in the format of xxx-xx-xxx will be utilized.
- The first three digits will be the SWCD number.
- The middle two digits will reflect the fiscal year in which the resulting plan is certified. If the year of certification is doubtful at the time the plan is completed, this segment of the number may be left blank until the plan is certified.
- The last three digits will be the same as the number of the request for planning assistance.

The SWCD, within its priority system, may then cause plan development to begin. Depending on technical needs and workload, the plan development may be accomplished by the local NRCS, TSSWCB regional office personnel and/or SWCD personnel. A cooperator may get an outside party to develop the plan then submit the WQMP to the local SWCD and NRCS for technical review.

Approval and Certification Process
The TSSWCB adopted the NRCS FOTG as the criteria applicable for water quality management plans. This guide is specifically tailored for the geographic area of each SWCD. The FOTG contains technical information such as:

- Important conservation considerations for natural resources
- Quality criteria and treatment levels
- Conservation management system guide sheets by land use
- Practice standards and specifications

Each SWCD annually reviews and adopts the Technical Guide as the criteria for use within the SWCD. Both the TSSWCB and SWCDs are involved in the development and maintenance of the Technical Guide.

In the same fashion as a conservation plan, SWCD approval of a WQMP should be based on conformity with the technical guide and adherence to its priorities and policies. Certification of conformity with the technical guide will normally be made by the authorized NRCS representative. The certification form should be signed by the applicant, authorized NRCS representative and SWCD. After SWCD approval, two originally signed copies of the form are to be sent to the TSSWCB regional office, along with two copies of the plan. Plans are sent to the TSSWCB regional offices to be reviewed for final certification. Once certified, the producer has a plan that meets the state's goals for water quality as per Section 26.121 of the Texas Water Code.

The TSSWCB will then return both copies of the plan to the SWCD with signature sheets completed. The producer should be given his or her copy of the certified WQMP. The SWCD should retain a copy in its regular files. The TSSWCB does not keep plans on file except for those developed for dry-litter poultry CAFOs.

Modifications
A WQMP must be modified when land use changes are made, significant areas of land are added or deleted, or other changes occur where modification of the plan becomes necessary to maintain consistency with a producer's operation.

Minor modifications that can be accomplished by pen and ink changes include:

- Slight adjustments in the implementation schedule that do not change the effectiveness of the plan and will still result in the plan's meeting the requirement of a RMS
- Modification of components needed to complete a planned practice measure
- Corrections to acres in a field

Modifications that will require recertification include:

- The addition or deletion of significant acreage, such as the acquisition of new land that will be managed as part of the operating unit covered by the certified WQMP or the loss of significant acreage covered by the certified WQMP
- Alteration of planned permanent practice measures including the addition or deletion of such
- A land use change of any part of the operating unit
- A change of ownership or producer

When pen and ink changes are made, a copy of the conservation plan of operation (CPO) pages on which the changes were made must be sent to the TSSWCB regional office for review. With the plans being on the computer, it is sometimes easier to make the correction at the SWCD and print a new CPO. When changes are documented in this manner, the procedure for recertification should be followed.

Recertification can be accomplished as follows:

- Print the revised CPO
- Revise the plan map if needed
- Prepare two copies of a modification certification page with a brief narrative at the top of the page explaining the changes being made followed by signature and date spaces for representatives of each of the four entities signing the original plan certification page. Have the cooperator, authorized NRCS representative, and the SWCD sign and date both copies of the modification certification page
- Send a copy of the revised CPO and both copies of the signed modification certification page to the TSSWCB regional office
- The modified plan certification page will be signed by the regional manager and returned to be filed immediately in front of the original plan certification page in each copy of the plan

It is recommended that the replaced CPO be retained in the SWCD copy of the plan. It can be filed behind the new CPO and marked as having been revised.

Plan Development

The TSSWCB requires that WQMPs meet resource management system standards as defined in the FOTG. The NRCS National Planning Procedures Handbook will also be used to set standards for planning requirements and plan content.

Criteria to Consider in Planning a WQMP:

- Cover the entire operating unit.
- Include essential practices applicable to the land use planned:
    - Cropland--Conservation Crop Rotation and Residue Management (No-Till and Strip Till, Mulch Till, Ridge Till or Seasonal).
    - Hayland--Forage Harvest Management.
    - Rangeland--Prescribed Grazing and first water facility.
    - Pastureland--Prescribed Grazing and first water facility.
- Include Nutrient Management when nutrients are applied.
- Include Pest Management when pesticides are applied.
- Include applicable practices to properly handle animal waste and mortality when an animal feeding operation is involved.
- Include Waste Utilization when agricultural wastes are applied.
- Include Irrigation Systems and Irrigation Water Management when irrigated land is involved.
- Include erosion control measures to bring soil loss to tolerance levels established for each soil.
- Include erosion control to treat other forms of erosion according to quality criteria in the FOTG.
- Include other practices to meet site concerns for a RMS.

Items to be Included in a WQMP

- SWCD cooperator agreement.
- Request for WQMP planning assistance.
- Soil Map with appropriate interpretations.
- Conservation Plan Map showing boundaries, fields, land use and acres, facilities, etc. Other appropriate maps will be added depending on type of plan.
- Location Map (Optional)
- A narrative record of decisions (CPO) using appropriate forms. Narratives should be developed for each identified practice that is needed for a WQMP.
- Implementation Schedule (month/year practices are to be applied in proper sequence).
- Worksheets used during the inventory or planning phases: waste utilization/nutrient management plan, forage inventories, grazing plans, erosion worksheets, engineering notes and designs, planning notes, etc.
- Environmental evaluation. (As required for NRCS technical assistance.)
- Signature Sheet. (Original signatures of Cooperator, NRCS, SWCD, TSSWCB.)
- Conservation assistance notes.

Sequence of WQMP Development

The sequence of events in the planning process is as follows:

1. The participant requests planning assistance.
2. The SWCD approves this request and sets a planning priority.

3. The plan is developed.
4. The producer's signature is to be entered after he has reviewed the completed WQMP document and agrees that it is what he intends to do.
5. The authorized NRCS representative will certify the WQMP complies with the technical guide requirements for a RMS.
6. The SWCD then confirms that the entire operating unit is included and approves the WQMP as meeting their program, plan and priorities.
7. The SWCD submits the plan to the TSSWCB regional office for review and certification.

The dates on all forms should reflect that the correct planning sequence has been followed.

Water Quality Management Plan Status Review

The purpose of the WQMP Status Review is to verify that implementation and maintenance of the practices scheduled in certified WQMPs are current and to determine if plan modifications are needed. The implementation schedule should balance the state's need for protecting water quality with producer's need to have sufficient time to implement practices in an economically feasible fashion. All certified WQMPs will be subject to a WQMP Status Review at the end of one full fiscal year following plan certification. WQMP Status Reviews will be conducted on certified plans each year. The review will be done on the farm or ranch covered by the plan. Plans on which WQMP status reviews are to be made will be selected by the TSSWCB regional offices based on the priority issues in each area (i.e. AFOs, TMDLs, etc...).

The staff of the TSSWCB or qualified SWCD personnel will conduct WQMP Status Reviews. Each WQMP Status Review should be made with the producer or his/her representative present. Local SWCD directors and NRCS personnel will be invited to attend and participate in the review. Arrangements for the review will be made in advance with the producer, the applicable SWCD and authorized NRCS representative.

During the WQMP Status Review, the progress in applying the practices in the plan, the condition of existing practices and the need for follow-up assistance will be observed and noted. The results of the review are to be recorded on forms provided by the TSSWCB. Copies of the completed form will be provided to the producer and the local SWCD for filing in the applicable WQMP. The original will be filed in the TSSWCB regional office.

All items determined during the review to need corrective action will be discussed with the local SWCD. If it is determined that corrective action is required, the producer will be advised and plans will be developed to enable him/her to remain in compliance with their plan.

In situations where the producer is unable or is unwilling to take steps to correct items needing correction, the SWCD should take the following action:

- Establish a time frame for the holder of the plan to meet the requirements established in their WQMP.
- Notify the holder of the plan of the deadline explaining that failure to meet the requirements of the plan can result in decertification of the plan. This notice should be delivered by certified mail to establish the beginning of the allowed time frame.
- If the holder of the plan fails to meet the established time frame, the SWCD should request that the TSSWCB decertify the plan. This request should be in a letter form.
- If the decertified plan is on an AFO, the TSSWCB is required to notify TCEQ.

CAFO Inspections for Dry-Litter Poultry Farms

All poultry farms that meet the definition of a Concentrated Animal Feeding Operation (CAFO) as defined in Title 30, Texas Administrative Code, Chapter 321, Subchapter B, are subject to annual inspections. Those dry-litter poultry farms that operate under a WQMP and choose not to obtain permit coverage from TCEQ will be inspected by TSSWCB staff.

WQMP COST-SHARE PROGRAM

General Purpose
The purpose of this program is to provide the needed incentive to landowners or operators for the installation of soil and water conservation land improvement measures consistent with the purpose of controlling erosion, conserving water, and/or protecting water quality.

The intent of the WQMP Program is to see WQMPs developed and implemented permanently. Cost-share assistance is intended as an incentive and not the driving force behind the program. It is the policy of the TSSWCB to cost-share on the basis of actual cost not to exceed the average cost.

Responsibilities of the TSSWCB

- Establish a procedure to allocate funds to designated SWCDs for their use in cost-share assistance.
- Establish conservation practice(s) eligible for cost-share and their standards, specifications, maintenance and expected life.
- Establish the maximum cost-share rate for conservation practice(s) approved for cost-share.
- Approve average cost developed annually by the SWCDs.
- Establish the maximum cost-share assistance that an eligible person may receive under the program in any one year.
- Perform clerical, administrative and record keeping responsibilities required for carrying out the cost-share program.
- Receive and maintain monthly reports from SWCDs showing the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month.
- Receive requests for reallocated funds and funds reverted from participating SWCDs
- Act on appeals filed by applicants.
- Process vouchers and issue warrants for cost-share to eligible recipients.

Responsibilities of the Local SWCD

- Designate, from TSSWCB approved list, those conservation treatment measures that will be eligible for cost-share in their SWCD.
- Establish SWCD maximum cost-share rates not to exceed maximum set by TSSWCB.
- Develop the SWCD's average cost of practices and practice components for each practice for each program year.
- Establish annually the maximum amount of cost-share available to each applicant.
- Administer the cost-share program within the funds allocated by the TSSWCB.
- Establish, under guidelines of the TSSWCB, the priority system to be used for evaluation for applications.
- Establish the period(s) of time for accepting applications and announce the cost-share program

locally.

- Accept, prioritize and process cost-share applications.
- Keep accurate records and logs.
- Determine eligibility of lands and persons for cost-share assistance under guidelines established by the TSSWCB.
- Notify applicants of the SWCD's decision on approval of application.
- File approved application in the SWCD's copy of the applicant's WQMP.
- Obligate allocated funds for applications receiving final approval within SWCD boundaries.
- Provide or arrange for technical assistance to applicants, or approve applicant and provide for an alternate source of technical assistance.
- Certify completed conservation practice(s) to the TSSWCB prior to payment.
- Submit required reports on the obligated balance of allocated funds and on accomplishments to the TSSWCB. Route through servicing regional office.
- Route all cost-share forms and documents through the regional office and copy regional office on any correspondence related to cost-share.

Administration of Funds

Allocation of Funds
The TSSWCB may allocate funds appropriated from the general revenue fund and other sources for cost-share assistance among particular SWCDs or among areas of the state for land improvement measures and may adjust such allocations through the year as available funds and SWCD needs and priorities change in order to achieve the most efficient use of state funds.

The TSSWCB may designate a portion of the funds allocated to a SWCD to reimburse the SWCD for obligations incurred in administering the cost-share program. These administrative funds will automatically be sent to the SWCD upon the TSSWCB's acknowledgement of the obligation of funds. The SWCD does not have to request administrative funds.

Annually, the TSSWCB will make a determination about cost-share allocation based upon extent of program area, seriousness of nonpoint source pollution concerns and available cost-share funds. Eligible SWCDs will receive notification of their cost-share allotment by letter from the TSSWCB. Upon receipt of a letter, the SWCD must request the allocation of cost-share funds from the TSSWCB by letter. The SWCD should send a copy to the servicing regional office.

Request for Allocation
The SWCDs within areas designated for the cost-share program must submit to the TSSWCB a written request for their cost-share fund allocation. The request should be accompanied by the SWCD's approved practice list, the average cost of all practices and components of practices to be cost-shared, the maximum amount per applicant and maximum rate established for the fiscal year for which the allocation is requested.

Approval for Allocation
The TSSWCB shall consider and approve, reject or adjust the SWCD's request for allocation, giving consideration to relative need for funding, SWCD's workload and fund balances, as well as other information deemed necessary by the TSSWCB. Only SWCDs for which the TSSWCB has established an allocation are eligible to claim cost-share funds.

Eligibility for Cost-Share Assistance
Cost-share assistance funds may be allocated only:
To An Eligible Person -- Any individual, partnership, administrator for a trust or estate, family-owned corporation, or other legal entity who as an owner, lessee, tenant, or sharecropper, participates in an agricultural or silvicultural operation within a SWCD.

For Eligible Purposes -- Those conservation practice(s) included in a certified WQMP and determined by the SWCD to be needed to:

- Improve water quality and/or quantity
- Reduce erosion

On Eligible Land -- Land within the state that is privately owned by an eligible person. Land leased by an eligible person over which the SWCD determines the applicant has adequate control to implement the WQMP, and which land is utilized as part of the applicant's conservation operating unit.

Ineligible Land -- Allocated funds shall not be used:

- To reimburse other units of government for implementing conservation practice(s).
- On privately owned land not used for agricultural or silvicultural production.
- On portion of operation (other than dry-litter poultry) that is permitted.

For Eligible Practices -- Annually, the TSSWCB will develop and approve a list of practices eligible for cost-share assistance under the WQMP program.

SWCDs should review the list of practices and from it, prepare a list of practices and component practices to be cost-shared in their SWCD. The list should be sent to the servicing TSSWCB regional office along with their allocation request for approval. The SWCD list may include:

- The entire list from the TSSWCB;
- Selected practices from the TSSWCB list, or;
- The entire list or partial list along with additional water quality justifiable practices and associated life spans for the SWCD. These additions must be approved by the TSSWCB prior to application in order to be eligible for cost-share.

The use of special conservation practice(s) is limited to those that can solve unique problems in a SWCD and which conform with one or more of the purposes of the cost-share program. These must be approved by the TSSWCB on a case-by-case basis.

If additional practices are requested, it will take action by the TSSWCB at its next scheduled meeting to obtain approval. The additional practices should be submitted to the TSSWCB for their consideration at the same time the list of approved practices is submitted. A brief statement of the water quality benefits of each additional practice should be included. The TSSWCB will notify SWCDs in writing of additional approved cost-share practices.

Average cost and cost-share rates should be established and included for all practices on the list intended to be cost-shared. This information should accompany the SWCD's request for their cost-share allocation. Cost data from other existing cost-share programs may be used. The TSSWCB will notify SWCDs in writing that their list of practices and supporting documentation has been approved.

Selected practices shall be consistent with the Agricultural and Silvicultural Nonpoint Source Management Program developed by the TSSWCB pursuant to the federal CWA, Section 319 and CZARA Section 6217.

Requirement to File an Application --In order to qualify for cost-share assistance, an eligible person shall file an application with their local SWCD.

Authorization to Sign Applications and Agreements --ALL applications and agreements shall be signed by:

- The eligible person(s) and
- The landowner in cases where the eligible person does not hold title to the land constituting the operating unit.

Waivers to One-Time Cost-Share
Section 523.6, (e), (2) of the TSSWCB rules states: In accordance with the terms of the maintenance agreement an eligible person may receive cost-share only once for an operating unit. The TSSWCB, on a case-by-case or project basis, in consultation with a SWCD, may grant a waiver to this requirement in situations where:

- Research and/or advanced technology indicates a plan modification to include additional measures to meet Texas surface water quality standards is needed.
- The operating unit is significantly increased in size by the addition of new land areas that require conservation practice(s) in order to meet Texas surface water quality standards.
- More stringent measures become necessary to meet Texas surface water quality standards.
- A landowner has assumed the responsibilities of a maintenance agreement in cases where the landowner was not the applicant.
- The life expectancy of a conservation practice or practices that was/were previously cost-shared through this program has/have expired and the practice or practices is/are mandated by state law or the laws, rules, or regulations of a political subdivision.
- A landowner has previously received cost-share through this program but an additional practice or practices has/have been subsequently mandated by state law or the laws, rules, or regulations of a political subdivision.

Cost-Share Assistance Processing Procedures

Responsibilities of Applicants

- Complete and submit an application to the SWCD.
- If an applicant is a SWCD director, he/she must complete and attach the Addendum form.
- Where an applicant does not have a certified WQMP and has not determined the anticipated total cost of the requested practice(s), he/she, as part of the application, may request assistance from the SWCD in developing such plan and determining costs.
- After being notified of approval and obligation of funds by the SWCD, the applicant may request technical assistance through the SWCD to design and layout the approved practices or request approval of alternate sources of technical assistance.
- Secure any approved contractor(s) needed and all contractual or other agreements necessary to construct or perform the approved practice(s). Cost-share is not allowed for work begun before

the application is approved.
- Complete and sign performance and maintenance agreements and any amendments to those agreements.
- Supply the documents necessary to verify completion of the approved practice(s) along with a completed and signed Performance Certification.

Responsibilities of SWCDs

- Establish the period(s) of time for accepting applications and announce the cost-share program locally.
- Accept cost-share applications at the SWCD's office.
- Determine eligibility of lands and persons for cost-share assistance. If an applicant's land is in more than one SWCD, the respective SWCD will review the application and agree to oversee all work, administer all contracts and obligate all funds from one SWCD, or prorate the funding between SWCDs.
- Give initial approval to those applications that meet the eligibility requirements.
- Evaluate the initially approved applications under the SWCD's priority system and give final approval to the high priority applications that can be funded by the SWCD's allocated funds.
- Obligate funds for the approved conservation practice(s) that can be funded and notify the applicant that his/her conservation practice(s) has/have been approved for cost-share and to proceed with installation. Allocated funds must be obligated by the last day of April of the fiscal year allocated. All unobligated allocations shall revert to TSSWCB as of May 1st of that fiscal year.
- Determine compliance with standards and specifications and certify the amount of cost-share for completed conservation practice(s) that meet standards.
- Keep accurate records and logs of applications and obligations.

Amended Applications for Cost- Share Assistance

- In the event that an adjustment to the estimated cost of conservation practice(s) is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit an amendment to his/her application for cost-share assistance to the SWCD for approval or denial.
- The SWCD may elect to adjust the amount of funds obligated for the conservation practice(s), provided funds are available, or to request additional funds from the TSSWCB.
- In the event additional funds are not available, the conservation practice(s) may be redesigned, if possible, to a level commensurate with available funds, provided the redesign still meets standards established by the TSSWCB; or the applicant can agree to assume full financial responsibility for the portion of the cost of conservation practice(s) in excess of the amount authorized.
- All information and data on the application and performance certification should agree and correspond to the water quality management plan. Any deviation should be accompanied by an explanation, plan revision if necessary, or revised certification documents if changes meet criteria for revision.

Performance Agreement

As a condition for receipt of cost-share assistance for conservation practice(s), the eligible person receiving the benefit of such assistance shall agree to perform those measures in accordance with

standards established by the TSSWCB. Completion of the performance agreement and the signature of the eligible person is required prior to payment.

Maintenance Agreement
As a condition of the receipt of state cost-share funds, the person receiving the funds shall agree to implement and maintain all measures in his or her WQMP consistent with its implementation schedule. This agreement shall remain in effect for a minimum period of two years after the WQMP is completely implemented for all practices except those cost-shared. This maintenance agreement shall remain in effect on cost-shared practice(s) for the expected life of the cost-shared practice(s) as established by the TSSWCB or, a period of two years after the WQMP is completely implemented, whichever period of time is longer.

The maintenance agreement is found on the application for cost-share. "Completely implemented" means that all practices contained in the implementation schedule are implemented to their full extent. Management practices must also be fully implemented. Practices such as conservation crop rotation must be completed before a plan will be considered as completely implemented. If a producer defaults on this agreement, repayment of all or a portion of the cost-share funds may be required by the TSSWCB. The legal status afforded by a certified WQMP does not end two years after implementation. It is ongoing as long as the plan is in place.

In the event that a producer chooses not to carry out the plan at some point after expiration of the maintenance agreement, certification of the plan may be withdrawn by the TSSWCB with SWCD concurrence.

Transfer of Land Ownership
A seller of agricultural land with respect to which a maintenance agreement is in effect may request the SWCD to inspect the practices. If the practices have not been removed, altered, or modified, the SWCD shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance agreement may also request that the SWCD inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the SWCD will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

Payment to Recipients
The SWCD shall determine eligibility of the applicant to receive payment of cost-share assistance, and provide certification to the TSSWCB that measure(s) have been installed consistent with established standards.

The TSSWCB shall issue warrants or direct deposits for payments of cost-share assistance.

Applications Held in Abeyance Because of a Lack of Funds
In those cases where funds are not available, the applications will be held by the SWCD until allocated funds become available or until the end of the program year. When additional funds are received, the SWCD will obligate those funds. The SWCD may shift all unfunded applications held in abeyance

because of lack of funds that are on hand at the end of a program year to the new program year or require all new applications as it deems appropriate.

Applications Denied for Reasons Other than Lack of Funds
Applications for funds which are denied by the SWCD for reasons other than lack of funds shall be retained in the records of the SWCD in accordance with the SWCD's established record retention policy. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied.

Applications Withdrawn
An application may be withdrawn by the applicant at any time prior to receipt of cost-share assistance by notifying the SWCD in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the SWCD in accordance with the SWCD's established record retention policy.

Applications Cancelled
If the applicant has not begun implementation of his/her practice(s) as indicated on his application, the SWCD may, if the directors determine such action is warranted, cancel a pending cost-share application. The applicant should be notified in writing establishing a specified time period for the applicant to provide evidence of his commitment to earn the obligated funds.

Appeals

- An applicant may appeal the SWCD's decision relative to his/her application for allocated funds.
- The applicant shall make any appeal in writing to the SWCD which received his/ her application for allocated funds and shall set forth the basis for the appeal.
- The SWCD shall have 60 days in which to make a decision and notify the applicant in writing.
- The decision of the SWCD may be appealed by the applicant to the TSSWCB.
- All appeals made to the TSSWCB shall be made in writing and shall set forth the basis for the appeal.
- All TSSWCB decisions shall be final.

Maintenance of Practices
Requirements for maintenance of practices applied using cost-share funds will be outlined in the eligible person's certified WQMP and reviewed with the eligible person at the time of application for cost-share.

A properly executed maintenance agreement shall be signed by the successful applicant prior to receipt of payment of cost-share assistance from the SWCD for a conservation practice(s) installed.

The SWCD may require refund of any or all of the cost-share paid to an eligible person when the applied conservation practice(s) has not been maintained in compliance with applicable design standards and specifications for the practice during its expected life as agreed to by the eligible person.

In cases of hardship, death of the participant, or at the time of transfer of ownership of land where a conservation practice(s) has been applied using cost-share assistance and the expected life assigned the practice has not expired, the participant, heir(s) or buyer(s) respectively, must agree to maintain the practice(s) or the participant, heir(s) or the buyer(s) by agreement with the seller must refund all or a portion of the cost-share funds received for the practice as determined by the TSSWCB in consultation with the SWCD. The TSSWCB, on a case by case basis, may grant a waiver to this requirement.

If there is an occurrence of bankruptcy by a cooperator who has received cost-share assistance for the implementation of their WQMP, bankruptcy does not automatically relieve the participants of their responsibilities under the terms of their cost-share agreement. If a recipient of cost-share is unable to carry out these terms or cannot arrange for another party to assume their responsibilities, then he/she must refund all or a portion of the cost-share funds received depending on the age of the installed practice. SWCDs have the responsibility to make a good faith effort to collect the amount owed. In the case of a bankruptcy, the involved SWCD should, as a minimum, make the court aware that the debt is owed by filing a proof of claim form* with the appropriate Bankruptcy Court. Any checks received from the Bankruptcy Court should be made payable to the TSSWCB.

Failed Practice Restoration
The rules below are not intended for the cost-sharing of additional practices, but to restore a failed cost-share practice. This is not considered additional cost-share and does not violate the established maximum cost-share amount.

Section 523.6,(g),(4),(A) states -- When conservation practice(s) that have been successfully completed and which later fail as the result of floods, drought, or other natural disasters, and not the fault of the applicant; the applicant may apply for and SWCD may allocate additional cost-share funds to restore them to their original design standards and specifications. These funds cannot exceed the amount of the original cost-share practice and must come from the SWCD's current program year allocation.

Section 523.6, (g),(4),(B) states -- When conservation practice(s) that have been successfully completed and which later fail as the result of error or omission on the part of the TSSWCB staff, the SWCD staff, or the NRCS staff while assisting the SWCD, and not the fault of the applicant; the TSSWCB may approve additional cost-share funds to restore the measure(s) to the correct design standards and specifications, where an investigation approved by the Executive Director or his designee shows good cause. These funds cannot exceed the amount of the original cost-share practice and must come from the SWCD's current program year allocation.

SWCD Administration of the Cost-Share Program
In establishing a priority system to be used for the evaluation of application for cost-share assistance, the SWCD may consider the following facts:

- The potential for the producer to receive an enforcement order to control or abate possible nonpoint sources of agriculture-related pollutants. (The higher the potential, the higher the rating.)
- The relative significance of off-site benefits that are obtained by installation of the practices to be cost-shared. (The more significant the off-site benefits, the higher the rating.)
- The impact the installation of the cost-shared practices will have on helping the SWCD meet its program, plan and priorities. (The greater the impact, the higher the rating.)

Priorities should be based on identifiable parameters such as agricultural activities, watershed boundaries, proximity to groundwater, etc.

Example:
Priority 1: Animal Feeding Operations
Priority 2: Irrigated Cropland
Priority 3: Dry Cropland
Priority 4: Pasture and Range

A SWCD has two workable options in determining what is cost-shared and at what priority:

- Cost-share funds may be obligated first-come, first-serve.
- An established sign-up period may be established. At the end of the sign-up period, each application is reviewed and assessed relative to other applications.

It is advisable and most efficient to make prospective applicants aware up front of what WILL and what WILL NOT be cost-shared by the SWCD, and to convey SWCD priorities to applicants.

This can be accomplished by providing a sign-up period in the SWCD and advertising it in the media most applicable in the local area. TSSWCB regional staff could be available to assist with a sign-up.

A producer, having a certified WQMP may apply for cost-share by completing "Application for Cost-share Assistance." The application for cost-share can be completed by the cooperator at any time during the planning process. The SWCD should not approve the cost-share application before the plan is certified by the TSSWCB.

The SWCD may then approve individual applications for cost-share assistance. Approvals should be based on funding limitations, priorities, and the individual caps established by the TSSWCB or SWCD. It is at this point that funds are considered obligated to the individual. Applicants should be advised that they will be eligible to apply for cost-share only one time per operating unit.

Before approving the application, the SWCD must determine that a practice for which cost-share is requested meets the conditions of eligibility established by the TSSWCB.

If a SWCD director is applying for cost-share, the director must complete the form *TSSWCB002Ad-2 (to be completed by SWCD). In accordance with established ethical procedures, such directors should recuse themselves when the SWCD considers their application.

The SWCD should retain the original and submit a copy of each approved and executed application for cost-share form to the TSSWCB regional office servicing that SWCD. The regional office will review the application, make necessary entries to logs and records, make copies and fax to the TSSWCB headquarters. The TSSWCB will set up a vendor ID number for the applicant, to facilitate payment of cost-share funds to the producer.

When practices to be cost-shared are implemented, the producer should contact and inform the SWCD that the cost-share practice(s) is complete and furnish the SWCD with receipts for reimbursement. The SWCD should then certify that the practice(s) meets standards set forth in the FOTG. Once the practice(s) is certified, the SWCD should complete the Performance Certification form and have the producer sign it. Normally, assistance from the authorized NRCS representative will be available for this certification. The SWCD may utilize other means, as it determines necessary, to make the certification. It is the SWCD's responsibility to assure that it is done adequately.

Partial payment can be made for completed practices that are listed separately on the application for cost-share. The partial payment block at the top of the performance certification form must be checked. The partial payments cannot exceed the amount of cost-share estimated for that particular practice by more than 10% of the application total.

When all practices for which cost-share was requested have been installed, the final payment block at the top of the performance certification form must be checked. If the amount of cost-share money earned is

less than that obligated on the application, the difference should be released back to the SWCD by entering that amount in the release blank on the performance certification form. The amount of cost-share payment for any particular practice cannot exceed by more than 10% the amount of cost-share estimated for that particular practice and the total amount of cost-share payment for all practices combined cannot exceed the total amount approved on the application by the local SWCD.

The signed performance certification form should be sent to the TSSWCB regional office servicing that SWCD and should be accompanied by receipts and other necessary documentation. The regional office will review the performance certification, make necessary entries to logs and records, make copies and forward the original documents to the TSSWCB headquarters. Original signatures are required because the form is retained for audit purposes at TSSWCB headquarters.

In addition, any correspondence from SWCDs concerning cost-share, water quality management plans or the program should be copied to the servicing regional office.

Upon submission of a voucher by the TSSWCB, the State Comptroller will prepare a warrant in the amount requested based on the form. The warrant will be sent to the TSSWCB. The TSSWCB will then send it directly to the producer.

An individual may receive cost-share only once for a water quality management plan unless a waiver is granted by the TSSWCB [§523.6(B)(e)(2)]. No person, whether as an individual, a partnership, or a corporation, may receive more than $15,000 per fiscal year in cost-share funds from the TSSWCB. Any amount received by a person through a partnership or corporation shall be assessed against the annual $15,000 limit in proportion to that person's interest in the partnership or corporation.

SWCDs may not establish a limit less than the minimum amount set by the TSSWCB.

Reporting and Accounting
The TSSWCB shall receive and maintain required reports from the SWCDs showing the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month.

Statewide Cost-Share Program
SWCDs outside a designated area with animal feeding operations that have developed WQMPs may request an allocation for cost-share assistance from funds that the TSSWCB has reserved for statewide application. These requests should be specific to the plan and amount required for each plan. The requests should be accompanied by a SWCD practice list, average cost of practices, and cost-share limit and rates as discussed on previous pages.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the WQMP Program, the TSSWCB administers general revenue appropriated by the Legislature and federal funds through the Clean Water Act, Section 319(h) Grant in Funding Strategy B.1.2:

B. Goal: NONPOINT SOURCE POLLUTION ABATEMENT
Administer a Program for Abatement of Agricultural Nonpoint Source Pollution

B.1.2 Strategy: POLLUTION ABATEMENT PLAN
Pollution Abatement Plan for Problem Agricultural Areas

FY2010/2011 *General Revenue*:	$8,612,034*
FY2010/2011 *Federal Funds*:	$90,162**
FY2010/2011 *Total* Strategy Funding:	$8,702,196

*Appropriation Rider:
5. Water Quality Management Plans. Included in amounts appropriated above in Strategy B.1.2, Pollution Abatement Plan, is $550,000 out of the General Revenue Fund in fiscal years 2010 and 2011 for administrative costs associated with the preparation of water quality management plans for poultry operators and $3,801,098 out of the General Revenue fund in fiscal years 2010 and 2011 for the planning and implementation of water quality management plans. Any unexpended balances from this appropriation as of August 31, 2010 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2010.

**Federal Funds:
One program employee is funded through the TSSWCB's annual allocate of Clean Water Act, Section 319(h) Grant funding per biennium at a cost of $90,162 within Strategy B.1.2. All remaining federal Section 319(h) grant funding is located in Strategy B.1.1.

This funding is used for direct administration of the WQMP Program, indirect administration of the agency, and cost-sharing payments to participants in the WQMP Program. $550,000 out of this strategy is directed toward administrative costs associated with the preparation of water quality management plans for poultry operators in accordance with Rider 5.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

No other agencies perform this function in state government. The federal NRCS provides conservation planning and financial assistance through various Farm Bill programs, however, any conservation plans developed by the NRCS that are not subsequently reviewed and certified as WQMPs are not considered to meet the programmatic requirements for authorization under Section 201.026, Agriculture Code.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Texas SWCDs are statutory partners in the administration of the WQMP Program. No other local or state government units are involved. The NRCS provides confirmation that each WQMP meets the technical requirements of the FOTG. No other federal units of government are involved in the program.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in fiscal year 2008 are $2,225,932.06. Under this program, the State Board allocates funding to SWCDs to be used for cost-share incentive payments to agricultural producers for the voluntary development and implementation of WQMPs. Through this program the agency also operates five regional offices strategically located across the state to provide engineering and technical assistance to agricultural producers to assist with development and implementation of WQMPs and to certify that implemented conservation practices meet federal and state technical requirements before incentives are paid. In addition, regional office staff performs annual status reviews to verify that the implemented practices are being properly maintained in accordance with cost-share contract requirements and program rules. Seventy-four (74) SWCD participated in this program with 2008 funding.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA. Certain aspects of the program are regulatory for poultry operations. See the program description for the Poultry WQMP Program for more information.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Poultry Water Quality Management Plan Program
Location/Division	Nacogdoches Poultry Program Office [Subdivision of Water Quality Management Plan Program located and administered statewide from Harlingen Regional Office]
Contact Name	Mark Cochran, Poultry Program Supervisor [Nacogdoches] Andy Garza, Regional Office Coordinator [Harlingen] John Foster, Statewide Programs Officer [HQ]
Actual Expenditures, FY 2008	$561,972.46
Number of FTEs as of August 31, 2008	7

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Poultry Water Quality Management Plan Program (WQMP) is a specialized subprogram of the Texas State Soil and Water Conservation Board's (TSSWCB) overall WQMP Program (see the WQMP Program description). During the 75th Regular Session (1999), the Legislature enacted Senate Bill 1910 in response to numerous water and odor related complaints pertaining to inappropriate disposal of poultry carcasses. Addressing animal mortality is a part of any animal feeding operation (AFO), however, some poultry producers were utilizing mortality management practices that were not environmentally advisable or considerate of neighboring property owners. This legislation mandated that only certain specific methods were to be used when addressing dead poultry; these specific methods included incineration, composting, and freezing and/or refrigerating dead birds until they could be transported to a rendering facility. Each of those practices required new equipment that many operations did not have on site. Because the TSSWCB's WQMP Program provides for the cost-sharing of this equipment, many poultry facilities chose to voluntarily participate in the program.

During the 77th Regular Session, the Legislature passed Senate Bill 1339 which went a step further and required participation in the program by all poultry facilities. Between 1994 when the WQMP Program began and September 1, 2001 when Senate Bill 1339 became effective, with significant assistance from NRCS in the earlier years, about 50% of all poultry farms in Texas had received a WQMP, mostly due to incentives offered by the cost-share provisions of the program and mortality management requirements of Senate Bill 1910 from the 75th Regular Session in 1997. However, between September 1, 2001 and January 1, 2008 the remaining 50% of the total poultry farms and any newly constructed ones still needed

a WQMP and existing WQMPs need ongoing periodic revisions, resulting in an increased workload for TSSWCB staff to develop and certify those WQMPs due to reduced assistance from NRCS because of their increased federally mandated programmatic workload. The passage of Senate Bill 1339 resulted in the TSSWCB formally establishing the Poultry WQMP Program to address the additional workload and technical requirements that existed for poultry operations. The Legislature provided one additional full-time equivalent and $250,000 per fiscal year to address the administrative and technical requirements for fulfilling the legislation.

The major functions of the Poultry WQMP are essentially the same as the overall WQMP Program, which are included in that program's individual description. Additional functions of the Poultry WQMP Program include enhanced status reviews of WQMP implementation and adherence, which are conducted in a manner consistent with permit inspections performed by the Texas Commission on Environmental Quality (TCEQ). The TSSWCB and TCEQ coordinate very closely on site inspections for poultry operations to ensure compliance with state and federal environmental rules.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Regional and site specific studies are periodically performed by the TSSWCB as "spot checks" on the effectiveness of WQMPs in controlled situations through computer modeling. The TSSWCB uses state and federal funding through its Statewide Nonpoint Source (NPS) Grant Program to contract with academic and research institutions as well as other state and federal agencies for this assistance. Measuring the true effectiveness of one individual WQMP's impact on the environment is extremely difficult and extremely expensive, so performance measures associated with this program are based on numbers of WQMPs developed, rather than across the board estimates of pollutant load reductions. The performance measure for the Poultry WQMP Program is a component of the overall WQMP Program's measure. Without investing cost prohibitive amounts of funding, any mechanism used to estimate the program's effects on a statewide level would return results that were conjecture at best.

An example of one analysis of WQMP effectiveness that was completed in 2008 was performed by the Water Resources Assessment Team of the USDA - Natural Resources Conservation Service (NRCS). The purpose of the study was to simulate nutrient and sediment loadings in the Sam Rayburn Reservoir Watershed using the Soil and Water Assessment Tool (SWAT) hydrologic/water quality model. Two scenarios were modeled: (I.) current conditions scenario representing the conditions in the watershed prior to the implementation of the WQMPs; (II.) treated conditions scenario representing the conditions after the implementation of 339 WQMPs on 17,297 ha (42,741 ac).

SWAT was calibrated/validated to measured stream flow at six USGS stream gages, and calibrated to measured sediment (TWDB hydrographic survey) in Lake Nacogdoches. Stream monitoring data was used from nine sampling stations to calibrate SWAT for phosphorous and nitrogen loading. Time series plots and statistical measures were used to verify model predictions.

The validated model was applied to evaluate the effects of various best management practices on three levels: farm level; subbasin level; and watershed level. The analysis was performed for the time period 1976 through 2005. The major best management practices (BMPs) simulated were: waste utilization, nutrient and pest management, ponds, buffer practices (field borders, filter strips, riparian forest buffers), pasture and hayland planting, prescribed grazing, forage harvest management, heavy use area protection,

waste storage facility, brush management, critical area planting, fencing, forest site preparation, firebreaks, tree establishment, and upland wildlife habitat management.

Scenario II showed that BMPs at the farm level where they were implemented reduced phosphorous loadings from 34 to 91 percent. Nitrogen loadings were reduced from 16 to 87 percent and sediment loadings from 42 to 78 percent. Scenario II showed that BMPs at the subbasin level reduced phosphorous loadings from 0 to 33 percent. Nitrogen loadings were reduced 0 to 21 percent while sediment was reduced from 0 to 29 percent. Scenario II showed that BMPs at the watershed level at the outlet of the Sam Rayburn Reservoir watershed, reduced phosphorous, nitrogen, and sediment loadings by 6.6, 0.3, and 0.2 percent, respectively.

All simulations assume that the effectiveness of BMPs remains constant for the entire modeling period, and did not account for loss of capacity in BMPs due to sediment accumulation. Given these results, the WQMPs were effective in reducing nonpoint source pollution at all levels, but the greatest benefit was at the farm level. Considering that less than 2 percent of the watershed was given conservation treatment through these programs, the study concluded that good potential existed for further nutrient and sediment reductions through continued WQMP planning and application.

This study, and others like it, continue to serve as the justification for continued WQMP Program activities throughout the state, and assist the TSSWCB in determining the technical requirements for conservation practices that are included within WQMPs.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Agriculture Code, Section 201.026 and 201.027 (related to water quality complaint resolution) have been significantly modified to increase coordination between the TSSWCB and TCEQ, address new statewide water quality concerns related to animal mortality, and to expand the utility of the program for the purpose of assisting the State in complying with federal water quality regulations.

During the 75th Regular Legislative Session, significant modifications were made to the Water Code by Senate Bill 1910 relating to ultimate disposition of poultry carcasses.

During the 77th Regular Legislative Session, House Bill 2310 (the TSSWCB's most recent Sunset Legislation) made numerous changes to the WQMP Program and its associated water quality complaint resolution function. The bill required the TSSWCB to establish goals, including the setting of priorities among voluntary efforts to reduce NPS pollution and to assist the agricultural community information regarding the jurisdictions of the TSSWCB and the TCEQ related to NPS pollution. The bill also required the TSSWCB to immediately notify TCEQ when the TSSWCB decertifies a WQMP for an AFO and to update the TSSWCB's identification of priority areas for the control of NPS pollution at least every four years. The bill set forth provisions regarding the considerations of the TSSWCB for changes to identified priority areas (Sec. 201.026), and required the TSSWCB to maintain detailed records about each TSSWCB referral of a farming operation to TCEQ for enforcement, including information regarding final disposition by TCEQ (Sec. 201.027).

Also during the 77th Regular Legislative Session, Senate Bill 1339 introduced a regulatory element into the WQMP Program as it relates to poultry operations. Senate Bill 1339 instituted mandatory participation in the program for all poultry operations in the State by all new poultry facilities prior to the population of the farm with birds, and for all existing farms to comply with a schedule included in the

legislation. While the legislation stated that all poultry facilities must participate in the program, it was later determined that the intent of the requirement was focused on those facilities not already required to obtain permit coverage from the TCEQ. Certain poultry facilities use liquid waste handing systems that are regulated by the TCEQ under the Texas Pollutant Discharge Elimination System (TPDES), which requires permitting through delegated federal authority from the EPA. As a result, only dry-litter poultry facilities, or those that do not use liquid waste handling systems were required to participate in the program. Aside from poultry operations, the WQMP Program remains a voluntary program administered for agricultural or silvicultural lands.

Another legislative enactment, House Bill 3355 during the 77th Regular Session, impacted the WQMP Program. This legislation specified that the TSSWCB may certify a WQMP, at the request of the landowner, for any agricultural or silvicultural land in the state. The bill also provided additional technical requirements relating to the burial of poultry carcasses, but prohibited the TCEQ from requiring a landowner who has a WQMP that includes technical specifications for proper burial from being required to record the location of burial in the county deed records.

During the 79th Regular Legislative Session, Senate Bill 1707 was passed to expand the scope of the WQMP Program as it relates to poultry operations. In 2003, the EPA adopted changes to the federal regulations relating to the permitting of AFOs. According to the federal regulations, as well as the complementary TCEQ rules through delegation, any AFO defined as a concentrated animal feeding operation (CAFO) was required to obtain permit coverage (AFOs were not). This portion of the revised federal regulations was ultimately vacated by the U.S. Second Circuit Court of Appeals, forcing EPA to make the necessary revisions. TCEQ also made complimentary revisions to the state rules that had been modified for consistency with EPA's initial federal regulation changes. While the requirement for a permit was eliminated, the designation as a CAFO remained for dry-litter poultry operations over a certain size. This meant that TCEQ still had a federally delegated responsibility to provide authorization for dry-litter poultry CAFOs to operate in the state, as well as a requirement to perform periodic site inspections to ensure compliance with law. It became clear to lawmakers and agencies that an efficient mechanism to carry out these duties was already in place as a result of Senate Bill 1339 passed during the 77th Regular Legislative Session. Since WQMPs were required for all poultry facilities, and the technical requirements for a WQMP paralleled those of the state CAFO rules, Senate Bill 1707 was passed to expand the scope of the WQMP from NPS to point source (PS) with regards to dry-litter poultry operations. Up to that point, it was common understanding between state and federal agencies that AFOs were considered NPS and CAFOs were considered PS. Because the WQMP Program was exclusively a NPS program, Senate Bill 1707 was needed to avail the benefits of the program to PS facilities (poultry facilities only however). In addition, the TCEQ made changes to the state CAFO rules to accommodate this mechanism, and the TSSWCB and TCEQ entered into a separate agreement that allowed the status reviews periodically performed on WQMP Program participants to be substituted for permit site inspection required by EPA. Both agencies conducted extensive coordination and training meetings to ensure the appropriate technical aspects of each site inspection were consistent with TCEQ requirements, and to implement a reporting process for the TSSWCB to transmit inspection data to TCEQ in a timeframe that accommodated their reporting needs to EPA.

During the 80th Regular Legislative Session, two other pieces of legislation impacted the WQMP Program. House Bill 1457 made a technical correction to Section 26.303 by removing the allowance of cooking poultry carcasses for feeding to swine as a means of disposing of mortality. This practice had actually been prohibited by legislation in a previous legislative session, but this particular citation was overlooked by the original bill. This required changes to the guidance documentation for the WQMP Program, as well as updates to all existing Poultry WQMPs. House Bill 1457 also clarified that dead poultry could be kept onsite for longer than 72 hours so long as they were frozen or refrigerated. Also

pertaining to poultry mortality burial, House Bill 1719 removed the requirement for a WQMP participant to notify TCEQ when the burial of a catastrophic die-off had occurred. Previous to this legislation, WQMP participants had been required by TCEQ rule to notify the appropriate TCEQ regional office.

The most recent modification to the Poultry WQMP Program occurred during the 81st Regular Session, when the Legislature enacted Senate Bill 1693 relating to the regulation of poultry facilities and poultry litter by the TSSWCB and to the enforcement authority of the TCEQ. During 2007, a major integrated poultry company began operating a new processing facility in Central Texas that required the assistance of approximately 100 new contracted poultry growers. As these new poultry facilities began operation throughout several surrounding counties, the TSSWCB and TCEQ regional offices began receiving many citizen complaints pertaining to nuisance odors. This legislation required the TCEQ to respond and investigate within 18 hours of receiving a second complaint against a poultry facility concerning odor associated with the facility, the application of poultry litter to land by the poultry facility, or a complaint concerning odor from a poultry facility at which the TCEQ has substantiated an odor nuisance condition during the previous 12 months. The legislation also requires TCEQ to issue a notice of violation for the facility if a nuisance odor is substantiated, and after three notices of violation in a 12-month period the facility is required to enter into a comprehensive compliance agreement with the TCEQ. The legislation also requires new poultry operators to complete a training course on the prevention of odor nuisances within 90 days of beginning operations.

Senate Bill 1693 also required the TSSWCB, in consultation with the TCEQ, to adopt rules establishing the criteria under which it is likely the operation, siting (placement), and other surrounding geographic and environmental factors would cause nuisance odor complaints. The legislation also prohibits the TSSWCB from certifying the operation's required WQMP when those conditions are met, unless the facility agrees to develop an odor control plan which the TCEQ agrees should mitigate the potential for odor nuisances. The legislation also requires additional record keeping by the poultry operation and persons that receive litter to be used on offsite locations. The TSSWCB and TCEQ are currently in the process of developing rules to implement Senate Bill 1693; the TSSWCB's rules should be published for public comment during Fall 2009.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Poultry WQMP Program affects dry-litter poultry operations and non-CAFO wet poultry facilities, as these facilities are required by state law to obtain and maintain a WQMP certified by the TSSWCB.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Poultry WQMP Program is administered identically to the overall WQMP Program (see the WQMP Program's individual description in this section of this SER).

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget

strategy, fees/dues).

Funding for Poultry WQMP Program is included in the funding for the overall WQMP Program (see that program's individual program description). Strategy B.1.2, Pollution Abatement Plan, includes state appropriated general revenue only. This funding is used for direct administration of the WQMP Program, indirect administration of the agency, and cost-sharing payments to participants in the WQMP Program. $550,000 out of this strategy is directed toward administrative costs associated with the preparation of WQMPs for poultry operators in accordance with Rider 5. A portion of the remaining funds under Strategy B.1.2 is used for poultry management as well through the normal course of operations at three of the TSSWCB Regional Offices.

The majority of the $550,000 specified in Rider 5 is used for operating expenses within the agency to maintain the staff assigned to the agency for poultry management. Remaining funds from this amount are used for contracted assistance with the program through SWCDs that have significant amount of poultry operations within their boundaries. Occasionally the TSSWCB contracts the services of academic entities such as Texas AgriLife Extension or AgriLife Research when technical services related to management practices or demonstrations are needed.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

There are no other internal or external programs within state government that provide identical or similar services. Some poultry operations may choose to obtain permit coverage from the TCEQ, which would authorize them to operate under Texas law, but very few (if any) take that route of authorization.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The Poultry WQMP Program works exclusively with poultry producers, local SWCDs, EPA, and the TCEQ. The relationship between the TSSWCB and SWCDs pertains to the normal program processes as explained in the description of the overall WQMP Program. The TSSWCB and TCEQ have several memorandums of understanding and agreement that apply to this program due to the coordination that is required between the two agencies with respect to responding to complaints and performing site inspections. A formal delegation agreement exists between the TCEQ and EPA with respect to the authorization of larger poultry facilities and their designation as CAFOs under the EPA's regulations and the Clean Water Act.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in fiscal year 2008 are $176,629.33. Under this program, the State Board allocates funding for the administrative costs associated with the preparation of water quality management plans for poultry operators. There are 4 contracts with 2008 funding, two with SWCDs, one with Texas A&M AgriLife Research, and one with NRCS. The contracts are monitored by State Board staff to ensure accountability and performance.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Section 26.303, Water Code, requires all poultry facilities within the state to possess and operate in accordance with a WQMP certified by the TSSWCB. The WQMP addresses the impacts that poultry operations have on water resources and the environment in general. A WQMP, as originally envisioned, was not intended to serve as an authorization to operate a poultry facility, but rather a voluntary conservation plan for participants to follow in their interest related to protecting and enhancing natural resources. In response to the requirement for the WQMP, the TSSWCB has made specialized modifications for the technical requirements for poultry operations so that they are consistent with state and federal law.

Inspections are conducted by the TSSWCB, the results of which are transmitted to the TCEQ on a quarterly basis. Procedures exist within interagency agreements for dealing with compliance issues, and for the referral of recalcitrant program participants.

When an inspection identifies a poultry producer that is not in compliance with a WQMP, the TSSWCB requires that compliance be attained within a specified amount of time. If the compliance issue relates to a matter the TSSWCB and TCEQ have agreed requires notification to the TCEQ, then the TSSWCB provides written notification to the TCEQ. Follow-up activities are conducted by each individual agency depending on the nature of the violation and the procedures specified in interagency agreement. The ultimate "sanction" available to the TSSWCB for repeated non-compliance with poultry WQMP is the removal of a WQMP's certification, which results in the producer being in violation of state law. The TCEQ is then responsible for any enforcement actions they choose to pursue.

The TSSWCB has elaborate complaint procedures in place through statute, agency rule, memorandums of agreement and understanding, and agency policies that are established to ensure proper handling of consumer/public complaints against regulated entities. These agreements are included in the Attachment Section of this SER under "Other."

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas State Soil and Water Conservation Board
Poultry WQMP Program
Exhibit 12: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2007 and 2008

	FY 2007	FY 2008
Total number of regulated persons/entities	1375	1350
Total number of entities inspected (complaints investigated)	11	96
Total number of complaints received from the public	11	96
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	1
Number of jurisdictional complaints found to be without merit	6	78
Number of complaints resolved	11	96
Average number of days for complaint resolution	19	14
Complaints resulting in disciplinary action:	6	18
administrative penalty	0	0
reprimand	0	0
probation	0	0
suspension	0	1
revocation	0	0
Other (letter of corrective action)	6	17

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Environmental Data Quality Management Function
Location/Division	Statewide Resource Management
Contact Name	John Foster, Statewide Programs Officer Aaron Wendt, Statewide Watershed Coordinator Donna Long, Statewide Programs Quality Assurance Officer
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	NA

B. What is the objective of this program or function? Describe the major activities performed under this program.

Qualtiy Assurance (QA) activities are conducted within the Texas State Soil and Water Conservation Board (TSSWCB) to ensure that all environmental data generated and processed are scientifically valid; of known precision and accuracy and acceptable completeness, representativeness and comparability; and legally defensible regarding methodology. This is achieved by ensuring that adequate QA tools are used throughout the entire data collection and assessment process (from initial planning through data usage).

The tools used in the quality system include the TSSWCB Quality Management Plan (QMP), management systems reviews, readiness reviews, the Data Quality Objective (DQO) process, Quality Assurance Project Plans (QAPPs), surveillance, Standard Operating Procedures (SOPs), technical systems audits, reviews, and data quality assessments. The QA Officer and appropriate management and technical staff participate in and are responsible for the creation and implementation of each of these tools. Individual QAPPs include a schedule for required reviews, assessments, and audits.

Quality system components are applied to specific projects using a graded approach. This is a process of basing the level of application of quality system controls applied to environmental data programs according to the intended use of the results and the degree of confidence needed in the quality of the results.

Specifically, it is the responsibility of the QA Officer working with Statewide Resource Management (SRM) Project Managers and cooperating entities to ensure that the following objectives are achieved.

- All environmental data generated are of known and acceptable quality. The data quality information developed with all environmental data is documented and available.

- The intended uses of the data are defined before the data collection effort begins, so that appropriate QA measures can be applied to ensure a level of data quality commensurate with the project data objectives. The determination of this level of data quality takes into account the prospective data needs of secondary users. The assigned level of data quality, specific QA activities and data acceptance criteria are explicitly described in each individual QAPP.

- Audits are conducted within the TSSWCB to ensure data validation. General audit procedures are stated in QAPPs generated by the TSSWCB and cooperating entities.

- QA activities are designed in the most cost-effective manner possible without compromising DQOs.

- Each entity that generates environmental data is to develop a QAPP, and will be responsible for ensuring that adequate resources (both monetary and staff) are provided to support the QA effort, and that the QAPP is implemented. QAPPs are to comprehensively describe detailed Quality Assurance/Quality Control (QA/QC) procedures that must be implemented for a particular project to ensure the quality of the data generated satisfy DQOs, and to specify mechanisms by which timely corrective action can be taken in the event that DQOs are not met.

- Until environmental data operations are completed, QAPPs are revised, at least annually, throughout the life of the project. More frequent revisions may be necessary if substantive changes are needed to incorporate modifications in project goals or DQOs or to incorporate corrective action. If non-substantive amendments are needed, they may be approved in writing without a revision to the QAPP; however, approved non-substantive amendments must be incorporated into the next annual revision of the QAPP. The last approved version of a QAPP remains in effect (i.e., does not expire) until a revised version has been approved by TSSWCB, and USEPA as appropriate.

- All applicable projects will adhere to the requirements and specifications stated in the TSSWCB QMP and the associated QAPP.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The TSSWCB, along with its cooperating entities and laboratories, is committed to the application of sound science, appropriate QA standards, and practicality in all environmental data programs supporting agricultural and/or silvicultural NPS water pollution abatement and/or prevention. Cooperating entities shall be bound by requirements delineated in the TSSWCB QMP to the extent these requirements pertain to the goals and objectives of their work.

For projects involving environmental programs, Environmental Protection Agency (EPA) assistance agreement recipients must implement or have implemented a quality system conforming to the national consensus standard ANSI/ASQC E4-1994, *Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs*. This quality system is applied to all environmental data programs within the scope of the assistance agreement. Environmental data programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

Cooperating entities are required to carry out contracted work under the auspices of the TSSWCB QMP and specific QAPPs. EPA requirements for QMPs are defined in *EPA Requirements for QMPs (QA/R-2)*. The QMP provides the foundation for project-based QAPP development and implementation on the part of this agency and its cooperating entities. These QA policies are designed to facilitate the mechanism of data collection, evaluation, and management.

The QMP establishes consistency both within the TSSWCB and with cooperating entities for the application of individual QA practices. Further, it ensures that all monitoring, measurement and modeling activities funded by EPA or the State, and administered by TSSWCB, are conducted in accordance with EPA QA requirements. The QMP clearly delineates the TSSWCB QA policy and management structure which is used to implement the quality system necessary to document the reliability and validity of all collected environmental data. The QMP is updated and revised at least annually.

Each project funded by this agency, that involves the collection of environmental data related to agricultural and/or silvicultural Nonpoint Source (NPS) water pollution abatement and/or prevention, either directly with State funds or as an agent with federal monies, will have an approved QAPP. This QAPP requirement is applicable to both projects conducted internally by TSSWCB staff and conducted contractually by cooperating entities on behalf of TSSWCB. A QAPP will be completed, approved and in place prior to any environmental data collection. The QA Officer audits field and laboratory procedures described in QAPPs, no less than once over the course of each project. Follow-ups will be conducted as necessary to resolve any deficiencies identified during the audits. This policy ensures that all environmental data collected by the TSSWCB and its cooperating entities, have compatible and quality assured data collection criteria. QAPPs will be forwarded to the QA Officer for review and approval. TSSWCB submits to USEPA for final approval those QAPPs which are associated with federally funded USEPA assistance agreements.

All TSSWCB QAPPs are approved under the auspices of the TSSWCB QMP and are required to meet USEPA requirements published in *EPA Requirements for QAPPs (QA/R-5)* and are required to be consistent with USEPA *Guidance for QAPPs (QA/G-5)*. TSSWCB water quality data is used to understand the fate and transport of environmental pollutants, to evaluate effectiveness of best management practices (BMPs), and to assess the State's water resources for the CWA §305(b) Water Quality Inventory and §303(d) List of Impaired Waters. Funded projects may be generally classified as one of five types or a combination thereof.

- Sampling QAPPs Document QA/QC procedures for field sampling and laboratory analysis for measurements or information that describe environmental processes, location, or conditions and/or ecological or health effects consequences and are required to be consistent with USEPA *Guidance on Choosing a Sampling Design for Environmental Data Collection (QA/G-5S)*. For those projects with an identified objective of submitting data to the TCEQ for use in satisfying State requirements of CWA §§305(b) and/or 303(d), consistency with *TCEQ SWQM Procedures, Volume 1: Physical and Chemical Monitoring Methods for Water, Sediment and Tissue (RG-415)*, *TCEQ SWQM Procedures, Volume 2: Methods for Collecting and Analyzing Biological Assemblage and Habitat Data (RG-416)*, and *TCEQ SWQM Data Management Reference Guide* is required. Additionally, consistency with Title 30, Chapter 25 of the Texas Administrative Code, *Environmental Testing Laboratory Accreditation and Certification*, which describes Texas' approach to implementing the NELAC® standards, may be required. Examples include:

    - Ambient and targeted SWQM
    - Groundwater monitoring
    - Biological assemblage and habitat assessment

- Bacterial Source Tracking
- BMP effectiveness monitoring
- Edge-of-field monitoring
- Use Attainability Analyses (UAAs)

- Modeling QAPPs document QA/QC procedures for modeling, including model development, calibration, and application. A model is software that creates a prediction of environmental processes, location, or conditions based on secondary data inputs. Modeling QAPPs are required to be consistent with USEPA *Guidance for QAPPs for Modeling (QA/G-5M)*. Examples include:
  - Modeling for TMDLs or WPPs
  - Modeling for BMP effectiveness

- Secondary Data QAPPs document QA/QC procedures for gathering and/or using existing environmental data for purposes other than those for which they were originally collected. These secondary data may be obtained from many sources, including literature, industry surveys, compilations from computerized databases and information systems, and computerized or mathematical models of environmental processes. Secondary Data QAPPs are required to be consistent with USEPA *Guidance on QAPPs for Secondary Research Data*. Examples include:
  - Supports modeling projects
  - Supports geospatial projects
  - Supports TMDLs or WPPs

- Geospatial QAPPs document QA/QC procedures for the use of information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth. This geospatial data may be derived from, among other things, remote-sensing, mapping, and surveying technologies. Geospatial projects frequently use a Geographic Information System (GIS) – a collection of computer hardware, software, and geographic data designed to capture, store, update, manipulate, analyze, and display geographically referenced data. Geospatial QAPPs are required to be consistent with EPA *Guidance for Geospatial Data QAPPs (QA/G-5G)*. Examples include:
  - Generating new Land Use/Land Cover (LULC) analyses
  - GIS to support modeling
  - Surveying to support engineered BMP construction

- Environmental Technology QAPPs document QA/QC procedures for planning, implementing, and assessing the design, construction, and operation of environmental technologies, an all-inclusive term used to describe pollution control devices and systems, waste treatment processes and storage facilities, and site remediation technologies and their components that may be utilized to remove pollutants or contaminants from or prevent them from entering the environment. Environmental Technology QAPPs are required to be consistent with EPA *Guidance on QA for Environmental Technology Design, Construction and Operation (QA/G-11)*. Examples include:
  - Evaluation of new technology/BMPs
  - Design and construction of engineered BMPs (exception of engineered BMPs within Water Quality Management Plans-WQMPs)

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The TSSWCB Environmental Data Quality Management function adheres strictly to the EPA requirements for Data Quality Systems and implements any changes in USEPA requirements, accordingly. The intent of TSSWCB environmental data quality management has always been to ensure all environmental data collected by the agency and its cooperating entities, have compatible and quality assured data collection criteria. Changes have been made to quality systems over the years, however, these changes are based, largely, on improvements in scientific knowledge, regarding those quality systems, as they pertain to laboratory and sampling procedures and technological advancements. The original intent of the agency's environmental data quality management function remains unchanged.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Parties who perform environmental data operations are identified in project workplans. All parties participate in identifying the work product through a pre-project planning process. The following list identifies those entities that have historically been cooperators with the TSSWCB on agricultural and/or silvicultural NPS water pollution abatement and/or prevention activities, as specified in the *Texas NPS Management Program*.

- Baylor University
- Councils of Governments
- Groundwater Conservation Districts
- Municipal Water Districts
- Resource Conservation and Development Councils
- River Authorities
- Soil and Water Conservation Districts
- Texas A&M University
- Texas A&M University-Corpus Christi
- Texas AgriLife Research
- Texas AgriLife Extension Service
- Texas Farm Bureau
- Texas Forest Service
- Texas Institute for Applied Environmental Research
- Texas Pork Producers Association
- Texas Tech University
- Texas Water Resources Institute
- U.S. Environmental Protection Agency
- U.S. Geological Survey
- University of Texas
- USDA – Agricultural Research Service
- USDA – Natural Resources Conservation Service

This list is by no means exhaustive. Other entities wishing to participate in programs administered at the state level (specifically, projects requiring data collection) through the TSSWCB are not precluded from doing so based on this listing.

The needs and expectations of each party are communicated and defined during the planning process and during project implementation, through meetings and written documents relating to workplan objectives.

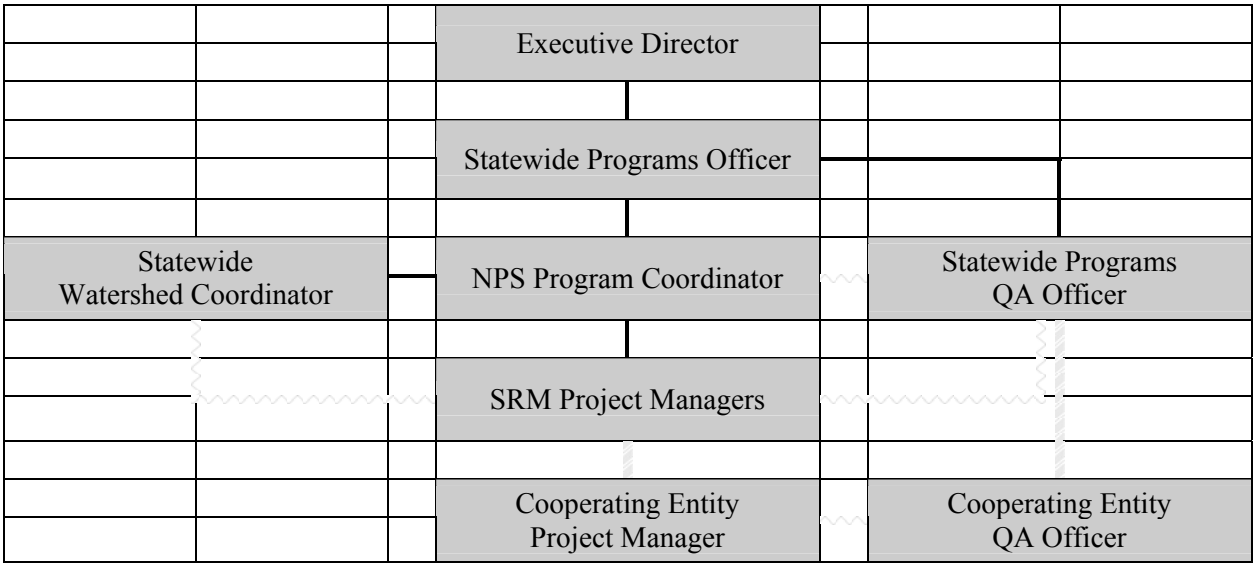
SRM Project Managers are responsible for maintaining communication with involved parties. Communication is necessary to ensure that personnel are aware of their responsibilities and roles in the project.

Documentation is required to implement and validate sampling and analytical efforts, detect problems, and explain unexpected phenomena. Health and safety issues are of utmost importance in any project. All project activities are reviewed by the QA Officer for impact on the health and safety of personnel, prior to initiation of activities.

Acceptance criteria for results, including measures of performance, are defined in approved workplans and/or QAPPs which are available upon request from the TSSWCB.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Quality System Organizational Chart



Among the staff of the TSSWCB, the Executive Director bears responsibilities for the staff as a whole. The Executive Director also serves in an advisory capacity on matters regarding QA, as well as, overall authority for the variety of agency obligations as set forth by state statute. The Executive Director also is responsible to the Board, and thereby the State in matters related to authorities vested in the Board.

The Statewide Programs Officer is responsible to the Executive Director, and has authorities pertaining to agricultural and silvicultural NPS water pollution abatement and prevention programs. The Statewide Programs Officer oversees the QA Officer and has a high level of participation in the process, carrying out or overseeing the assessments and QA activities of the agency.

In order to properly manage the quality system for environmental data programs within the TSSWCB and cooperating entities performing duties under TSSWCB administration, all QA management responsibilities shall be assigned to the QA Officer. The QA Officer will be under the administrative

management, direction and support of the Executive Director through the Statewide Programs Officer. The line of authority is shown in organizational chart located above.

- The QA Officer will be the official contact for all QA matters involving the TSSWCB.
- The QA Officer will be responsible for identifying and responding to QA needs, problems, and requests from within the TSSWCB and from cooperating entities. The QA Officer will provide technical QA assistance or obtain technical assistance from the EPA Region 6 QA Management Office as necessary. This will include assistance in preparing detailed QAPPs, contract or other external procurement packages requiring QA measures, and designing QA programs for new studies.
- The QA Officer will review and approve all TSSWCB and/or cooperating entity-prepared QAPPs and all QA-related sections of procurement packages, which include or require QA measures. QAPP signature approval authority resides with the QA Officer.
- The QA Officer will work with the individual program managers, management, and other personnel to take appropriate corrective action as needed.
- The QA Officer will serve as liaison between the EPA Region 6 QA Management Office, TSSWCB programs and other environmental monitoring entities (including cooperating laboratories) in QA-related matters.
- The QA Officer will prepare and submit QA reports to TSSWCB management on an annual basis and, when appropriate, to the EPA Region 6 QA Management Office.
- The QA Officer will coordinate management and technical systems audits of cooperating entities and laboratories.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Funding for the QA function is inherent and described in each of the project workplans that deal with sampling, regardless of the funding source for a particular workplan (State for Federal). A QAPP document may have an associated dollar amount assigned within the budget of the workplan but is reflective only of the amount of contractor time involved with preparation of the document. All QA procedures implemented within the context of the field and laboratory are incorporated into the cost of the sample collection and parameter/profile procedural costs.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

QA at the TSSWCB Regional Offices:
A Water Quality Management Plan (WQMP) is a site-specific plan developed through and approved by Soil and Water Conservation Districts (SWCDs) for agricultural or silvicultural operations. The WQMP includes appropriate land treatment practices, production practices, management measures, technologies

or combinations thereof. The purpose of a WQMP is to achieve a level of pollution prevention or abatement determined by the TSSWCB, in consultation with local SWCDs, to be consistent with Texas Surface Water Quality Standards. Cooperators (individual farmers and ranchers) implementing WQMPs are critical to TSSWCB's mission. For more information on BMPs, refer to *TSSWCB Water Quality BMP Manual* or to *TSSWCB/TWDB Water Conservation BMP Guide for Agriculture in Texas*.

The TSSWCB selected requirements for WQMPs based on criteria outlined in the Field Office Technical Guide (FOTG), a publication of the United States Department of Agriculture (USDA) - Natural Resources Conservation Service (NRCS). The FOTG contains technical information, specific to a geographic area, about the conservation of soil, water, air, and related plant and animal resources. The FOTG contains the NRCS Conservation Practice Standards and Specifications. Practice Standards define the practice and where it applies. Practice Specifications are detailed requirements for installing the practice. The electronic FOTG can be accessed at http://www.nrcs.usda.gov/technical/efotg/.

Technical assistance for WQMP development and implementation is provided by TSSWCB Regional Offices and NRCS Field Offices. This technical assistance includes planning and assessing the design and construction of engineered BMPs, or environmental technologies as defined in the requirements for Geospatial QAPPs. Financial assistance for WQMP implementation is provided by TSSWCB through various cost-share assistance programs sourced from State appropriations and federal grants. Therefore, requirements found within the context of a Geospatial QAPP should be applicable when technical or financial assistance from TSSWCB is provided.

However, the QA Officer concludes that 1) the wide range of operating systems on agricultural and silvicultural lands in Texas necessitates a flexible WQMP Program, 2) the volume of WQMPs certified each FY is prohibitive to developing a QAPP for each project that provides technical or financial assistance to cooperators, 3) NRCS Conservation Practice Standards and Specifications represent the best available technology for use on agricultural or silvicultural lands and describe appropriate design and construction requirements, and 4) Good Engineering Practices, employed by staff in both the TSSWCB Regional Offices and the NRCS Field Offices, provide more than adequate QA/QC mechanisms to satisfy The requirements for a Geospatial QAPP. As such, a QAPP is not required when technical or financial assistance is provided for the design and construction of engineered BMPs prescribed in a WQMP.

QA for Continuous Water Data:
The Texas Commission on Environmental Quality (TCEQ) Continuous Water Quality Monitoring Network (CWQMN) is administered by the Monitoring & Assessment Section of the Water Quality Planning Division of the Office of the Chief Engineer of the TCEQ. CWQMN stations are operated by TCEQ regional staff, cooperators, and/or contractors. The TCEQ CWQMN measures water quality parameters in various waterbodies of interest around the state at greater frequency than is possible with grab samples or short-term deployments of monitoring instrumentation. Continuous water data is measured automatically (365 days a year) at CWQMN stations and the data are telemetered to the TCEQ headquarters in Austin. Some TCEQ CWQMN stations are funded in whole or in part by non-TCEQ funds (i.e., a cooperating sponsor). All TCEQ CWQMN stations, regardless of funding source, are covered under the TCEQ CWQMN QAPP. This QAPP describes and documents policies, procedures, infrastructure requirements, assessments and response actions, and data management, needed to satisfy identified data quality objectives for CWQMN stations. Activities such as deployment, operation, maintenance, and data validation are described in the QAPP.

The United States Geological Survey (USGS)-National Streamflow Information Program (NSIP) provides for a unified network of gages to provide streamflow information required to meet local, State, regional, and national needs. To provide streamflow information to meet national needs, the information

obtained from these stream gages is consistent, obtained using standard techniques and technology, and subject to the same QA/QC. The USGS operates and maintains approximately 7,500 stream gages which provide long-term, accurate, and unbiased information on streamflow. The USGS stream gaging network is currently funded in partnership with over 800 federal, State, and local agencies.

The TSSWCB collaborates with TCEQ and USGS by providing funding sourced from State appropriations and federal grants for the establishment, operation, and/or maintenance of CWQMN stations and NSIP gages, as well as, the management of continuous water data collected at these stations and gages, i.e., sampling activities as described in the requirements for a Sampling QAPP. Therefore, Sampling QAPPs should be applicable when TSSWCB funding for TCEQ CWQMN stations or USGS NSIP gages is provided.

However, the QA Officer concludes that, for continuous water data collected through the TCEQ CWQMN or the USGS NSIP, more than adequate QA/QC mechanisms to satisfy requirements for a Sampling QAPP are employed by staff at TCEQ and USGS. Additionally, the QA Officer concludes that due to the frequency at which individual data points are recorded for continuous water data collected through the TCEQ CWQMN or the USGS NSIP, the management of such continuous water data is beyond the institutional capacity of TSSWCB, but that more than adequate institutional capacity to satisfy the requirements for a Sampling QAPP exists at TCEQ and USGS. As such, a QAPP authorized under the auspices of the TSSWCB QMP is not required when TSSWCB funds the collection of continuous water data through the TCEQ CWQMN or the USGS NSIP.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TCEQ and the TSSWCB work closely on the preparation and approval of Total Maximum Daily Loads (TMDLs), Implementation Plans (I-Plans), and Watershed Protection Plans (WPPs) when one or more of the sources of pollution are from agriculture or silviculture. A memorandum of agreement (see the Attachments Section this SER under "other") between the TCEQ and the TSSWCB provides the framework for collaboration between the two agencies to develop and implement TMDLs and WPPs.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

See Section E of this program/function description.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

No contracted expenditures are made within the context of this function. Data Quality Management is a function of all agency programs that collect environmental data.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

No statutory changes are needed.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

EPA Guidance documents may be accessed at the USEPA website; http://www.epa.gov and by typing in the title of the desired document. The NRCS FOTG may be accessed at: http://www.nrcs.usda.gov/technical/efotg. Information on the USGS NSIP is available at http://water.usgs.gov/nsip/. Other documents referred to in this summary may be accessed on the TSSWCB website: http://www.tsswcb.state.tx.us.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

While the Environmental Data Quality Management function at TSSWCB provides for requirements in the collection of environmental data, it is not in and of itself a regulatory program; nor does it impose requirements for the collection of data on any regulatory programs.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Water Supply Enhancement Program [Texas Brush Control Program]
Location/Division	San Angelo Water Supply Enhancement Program Office [Water Supply Enhancement Program Supervisor is located in San Angelo; administers statewide program from this location]
Contact Name	Johnny Oswald, Program Supervisor [Technical / Policy]
Actual Expenditures, FY 2008	$2,520,604.86
Number of FTEs as of August 31, 2008	3

B. What is the objective of this program or function? Describe the major activities performed under this program.

In 1985, Senate Bill 1083, Acts of the 69th Legislature (Regular Session) created the Texas Brush Control Program. The goal of the program is to enhance the state's quantity of water resources through selective control of brush species. The Texas State Soil and Water Conservation Board (TSSWCB) is designated as the agency responsible for administering the program and is given authority to delegate responsibility for administering certain portions of the program to local soil and water conservation districts (SWCDs). Although the program was authorized and created in 1985, the Program did not receive appropriations from the Legislature until 1999. Due to the legislative intent of recent appropriations and specific direction from lawmakers, since 2003 the program has focused almost exclusively on specific areas of the state which are likely to produce the most increases in available surface and groundwater. In response, the TSSWCB has assigned the functional name of *Water Supply Enhancement* to the Program, although the *Texas Brush Control Program* title remains in statute due to the original legislation's broader scope.

The major activities of the Program are specified in Chapter 203, Agriculture Code, agency rules in 30TAC517, Subchapter B, and the State Brush Control Plan (required by statute). In general, the Program consists of establishing priorities, contracting with landowners in priority areas that voluntarily choose to participate, those participants carrying out brush control activities, certification of the work, and payment of a share of the cost of the work being made from the TSSWCB to the participant through the local SWCD.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

In 1999 the Texas Legislature began funding feasibilities studies in areas of the state to provide guidance in determining water yield expectations. The Water Supply Enhancement Program (WSEP) was initially set by a series of feasibility studies that included hydrologic computer simulation of the watershed behaviors before and after brush removal. These studies also simulated changes in the water yield resulting from brush treatment that varied by sub-basins, with all sub-basins showing increase water yield as a result of removing brush. In the Pedernales feasibility study's executive summary it states "the average annual water yield increases ranged from about 13,000 gallons per treated acre in the Canadian watershed to about 172,000 gallons per treated acre in the Medina watershed". The North Concho River Watershed feasibility study estimated the cost of 1 ac/ft. of water produced by brush control as $53.00 compared to pumping water from other sources to San Angelo at $160.00 per/ac./ft. To date, the program has treated more than 766,529 acres of brush (FY 2000-2008) with more than $44 million in state general revenue and water conservation bonds in various watersheds throughout the state.

Because of the complexity of brush/watershed hydrology, exact prediction of water enhancement from brush control is difficult. The model simulations represent the best scientific estimates available. Large scale brush treatment projects and ongoing monitoring will help to refine these estimates.

As populations increase throughout the state and water shortages from drought conditions increase, demand for brush control funding exceeds the amount of funds available. Selecting priority areas for maximum water yield from brush control is an inexact science requiring costly modeling. However, it is possible to identity watershed characteristics that have significant impacts on potential water yields. Recently, the WSEP has contracted with academic and research institution to develop a ranking system for watersheds and provide a more cost efficient monitoring program to determine water yield on the species that are being treated in the various watersheds throughout the state. This system will provide a tool for providing rapid, low cost assessments for assigning limited funding to areas that will provide maximum impact.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

In "Evaluation of the TSSWCB Brush Control Program: Monitoring Needs and Water Yield Enhancement," Dr. Ken Rainwater provides a clear description of the pilot program's original intent:

> The brush control program was initially set by a series of feasibility studies that included hydrologic computer simulations of the watershed behaviors before and after brush removal. All simulations also included the assumptions that (1) all brush would be effectively treated or removed at all positions in the subwatersheds, (2) all landowners in the target watersheds should willingly participate, and (3) sufficient funds would be available to provide cost share to all landowners (Executive Summary, page iv).

However, lessons learned from the pilot project proved that these assumptions could not be fully implemented in the entire river basin. Through consultations with the Texas Water Resources Institute: Texas A&M AgriLife and the Texas Tech University Water Resources Center, the agency developed a set of working criteria to guide the program.

The following criteria were used to select subwatersheds:

- Soils-low permeability in the watershed catchment area and leading toward the streambed
- Slope-sufficiently steep to carry runoff to streambed
- Area-large enough to generate measurable flow contribution
- Brush cover distribution-fraction of the area with treatable brush cover and proximity to stream channel
- Land use-vegetation and land management strategies by land owner
- Groundwater conditions-depth to groundwater table, groundwater flow direction, and aquifer permeability

This limits the numbers of subwatersheds to be treated within a larger river basin, which thereby limits the number of landowners needing to participate, and limits the amount of funding required from the state for each watershed. While brush control is still the tool used to increase water yield, ultimately, hydrologic criteria has been implemented to guide the program.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

River authorities and municipalities have the greatest potential to benefit from the WSEP. They participate by providing guidance, promoting the program in their jurisdiction, and determining water needs in their area. In some cases, river authorities and municipalities participate financially, which is encouraged by the TSSWCB.

Landowner participation is crucial to the successful implementation of the WESP. To be eligible for the WSEP, the applicants must be in areas of the watershed that have been determined to be the highest yielding subwatersheds within a basin. The applicants also must show control of their property for a minimum of ten years, either through a written lease agreement or ownership. They must agree to a cost-share contract that stipulates a 70% cost-share rate, the amount of brush to be treated and the amount of money to be paid by the state. Also, applicants must agree to a conservation plan that addresses wildlife and other natural resource concerns.

Since FY 2001, 1,341 applicants have participated in the WSEP. To date, the program has treated more than 766,529 acres of brush in various watersheds throughout the state.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

TSSWCB uses a process for allocating funds to the WESP projects based on the needs considered in regional water plans. TSSWCB delineates brush control areas in which a water need exists based on the most recent regional water plan and in which brush control has a strong potential to increase water yield. Brush control delineation is based on watershed studies-scientific studies, modeling, climate, hydrology-brush infestation, and water needs. The TSSWCB also considers all areas of the state equal where water needs exist. In allocating these project funds, TSSWCB used the following process:

- Consult with SWCD through the TSSWCB field staff to determine needs in their areas.
- Review requests that were submitted through other entities.
- Determine workload amount that each SWCD may be able to do in a year within that watershed project as determined by the SWCD and TSSWCB.
- Determine the highest water yielding sub-basin or basins within a watershed with guidance from feasibility studies and proposals that were submitted.
- TSSWCB staff consult with all SWCDs prior to allocating funds to each project for the reasons noted below.

The following is a list of current projects and their eligible areas:

Pedernales:
Continue working in all eligible sub-basins as requested by the workgroup, priorities were given to application with the earliest sign up dates as requested by working group

Nueces River:
Funds were requested by the SWCD for funding in the highest yield sub-basins as determined by the feasibility studies (105-2, 105-3, and 105-5) and workgroup meeting held with the local SWCD, the other 44 sub-basins within the Nueces Watershed were considered medium priority

Frio River:
The Frio River watershed has 26 sub-basins; however, funds were limited to Frio County

Canadian River Watershed
The Canadian River Watershed above Lake Meredith on the main channel

Twin Buttes:
The Twin Buttes workgroup recommended funding to 66 of the 82 total sub-basins in the Twin Buttes watershed. Funding has been limited to 20 sub-basins on the main channel of the Middle Concho River. These sub-basins are MC11, MC12, MC13, MC18, MC25, MC27, MC2, MC28, Pecan Creek PC1-PC10 and South Concho SC7 and SC8.

Bosque River:
The Bosque workgroup prioritized the main channel of Steel Creek as a high priority area, and prioritized Meridian Creek, Morgan Creek, and the main channel of the Bosque River as medium priority.

Lake Brownwood:
Lake Brownwood has 48 sub-basins within the watershed. The workgroup determined sub-basins 33, 34, 37, 38 were the most productive areas to treat with the highest amount of landowner participation.

Lake Arrowhead/Lake Kickapoo Watersheds:
Lake Arrowhead and Lake Kickapoo watershed consist of 26 sub-basins. The workgroup determined that sub-basins 4, 5, 6, 15, 16, 20, 21 were the highest yielding sub-basins and funds are only available in those areas for treatment.

Edwards Aquifer:
The Recharge and Contributing Zone of the Edwards Aquifer consist of 13 counties. After consultation with USDA – Natural Resources Conservation Service (NRCS), TSSWCB, and SWCD money was allocated to the Edwards contributing zone located within the boundary of Bandera County.

Greenbelt Reservoir:
Green Belt requested funds to treat the Lake basin. A proposal was submitted to the Water Enhancement office. The proposal did not include the size of the watershed and the amount of water that may be produced.

O.C. Fisher Reservoir:
O.C. Fisher consist of 18 sub-basins, however, funding is only being made available for the lake basin.

Lake Ivie (Main Concho):
Funds were requested by Texas Department of Agriculture (TDA) and the SWCD to treat Salt Cedar at the mouth of Lake O.H. Ivie located on the Concho River.

Guadalupe River (Kerr, Kendall, Comal):
The Guadalupe River project conducted a workgroup meeting in August 2009 pertaining to FY 2010 funding. The SWCDs were consulted on their request for funding prior to allocation. The workgroup recently met and established an average cost per acre, a cost share rate, and a priority system within the Guadalupe River Watershed.

Fort Phantom Reservoir:
Funds were request by SWCDs and allocations were made to the projects; however, no proposal or workgroup meetings have been held.

Carrizo/Wilcox/Guadalupe (Gonzales County):
Funds were requested by SWCDs and allocations were made to the projects; however, no proposal or workgroup meetings have been held.

Lower Guadalupe River:
Funds were request by SWCDs and allocations were made to the projects; however, no proposal or workgroup have been held.

Palo Pinto Reservoir:
Funds were request by SWCDs and allocations were made to the projects; however, no proposal or workgroup have been held.

Once project allocations are established, 31 TAC §§517.1 - 517.12 direct how SWCDs must administer the program locally (see Attachment 9 of this SER). The TSSWCB allocates funds to the SWCDs to hire district planners to help administer the program.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

For the WSEP, the TSSWCB administers general revenue appropriated by the Legislature in the following strategy:

C. Goal: WATER SUPPLY ENHANCEMENT
Protect and Enhance Water Supplies

C.1.1 Strategy: WATER CONSERVATION AND ENHANCEMENT
Provide Financial/Technical Assistance for Water Quantity Enhancement.

FY2010/2011 General Revenue: $9,087,282*

*Appropriation Rider:
6. Brush Control. Included in amounts appropriated above in Strategy C.1.1, Water Conservation and Enhancement, is $4,543,641 in fiscal year 2010 and $4,543,641 in fiscal year 2011 out of the General Revenue Fund for the brush control program. These funds shall be used for supporting existing and implementing new brush control projects designated by the Soil and Water Conservation Board. Any unexpended balances from this appropriation as of August 31, 2010 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2010.

All funding in Strategy C.1.1 is used the Program. No other sources of funding are currently supplementing program activities.

The funding and focus of the Program has ostensibly been directed through riders in the TSSWCB's appropriations. The following is a list pertinent riders *(from most recent to oldest)* since the Program's initial funding.

2008-2009 Biennium

6. Brush Control. Included in amounts appropriated above in Strategy C.1.1, Water Conservation and Enhancement, is $1,883,927 in fiscal year 2008 and $1,883,926 in fiscal year 2009 out of the General Revenue Fund for the brush control program. These funds shall be used for supporting existing and implementing new brush control projects designated by the Soil and Water Conservation Board.

8. Appropriation: Canadian River Shed Brush Control Project. Included in the amounts appropriated above in Strategy C.1.1, Water Conservation and Enhancement, is $500,000 out of the General Revenue Fund in fiscal year 2008 for a brush control project in the Canadian River shed.

Any unexpended balances as of August 31, 2008 out of appropriations made herein are appropriated to the Soil and Water Conservation Board for the same purpose for the fiscal year beginning September 1, 2008.

2006-2007 Biennium

6. Brush Control. Included in amounts appropriated above in Strategy C.1.1, Water Conservation and Enhancement, is $1,874,176 in fiscal year 2006 and $1,816,009 in fiscal year 2007 out of the General Revenue Fund for the brush control program. These funds shall be used for supporting existing and implementing new brush control projects designated by the Soil and Water Conservation Board.

2004-2005 Biennium

6. Brush Control. Included in amounts appropriated above in Strategy A.1.2, Brush Control Assistance, is $3,114,794 in fiscal year 2004 and $607,805 in fiscal year 2005 out of theGeneral Revenue Fund for the brush control program. These funds shall be used for supporting existing and implementing new brush control projects designated by the Soil and Water Conservation Board.

Also included in amounts appropriated above in Strategy A.1.2, Brush Control Assistance, is an amount not to exceed $100,000 in unexpended balances remaining on August 31, 2003 in the General Revenue appropriation for brush control. These funds shall be used for brush control activities during the biennium beginning on September 1, 2003.

It is estimated that the amount of General Revenue required for Debt Service Payments for General Obligation Water Bonds for Agricultural Water Conservation Bonds issued by the Water Development Board during the 2002–03 biennium will total $5,390,590 for the 2004-05 biennium. In the event that debt service requirements are less than $5,390,590, the difference is hereby appropriated to the Soil and Water Conservation Board for additional brush control activities in Strategy A.1.2, Brush Control Assistance.

7. Appropriation: Agricultural Water Conservation Bonds for Brush Control. Included in amounts appropriated above in Strategy A.1.2, Brush Control Assistance, in fiscal year 2004 is $11,250,000 in unexpended balances in Interagency Contracts. These amounts are derived from Agricultural Water Conservation Bond proceeds made available to the agency through an interagency agreement between the Soil and Water Conservation Board and the WaterDepartment Board. These funds shall be used for the implementation of brush control cost share projects.

Any unexpended balances from this appropriation as of August 31, 2004 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2004.

2002-2003 Biennium

5. Brush Control. Included in the amounts appropriated above in Strategy A.1.2, Financial and Technical Assistance, is $9,163,189 out of the General Revenue Fund for the biennium for the brush control program. These funds shall be transferred to Brush Control Fund No. 556 for expenditure from that Fund. Out of the total appropriation for brush control, $1,000,000 for the biennium is to be spent on brush control feasibility studies, including $500,000 to be spent on studies in the Palo Pinto Lake, Lake Brownwood, Lake Fort Phantom Hill, and Lake Arrowhead

watersheds; and $500,000 to be spent on studying methods for adequately addressing future maintenance needs and identifying appropriate watershed management activities and financing mechanisms for the State Brush Control Program. All feasibility studies must include participation by the State Soil and Water Conservation Board, Texas Agricultural Extension Service, Texas Agricultural Experiment Station, and interested local entities, such as river authorities. A total of $8,163,189 for the biennium is to be used for brush control projects in the North Concho River Watershed. Any unexpended balances from this appropriation as of August 31, 2002, are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2002.

In addition to amounts appropriated above, any unexpended balances associated with the brush control program as of August 31, 2001, in Strategy A.1.2, Financial and Technical Assistance, are hereby appropriated for the same purposes for the fiscal year beginning September 1, 2001.

2000-2001 Biennium

6. Brush Control. Out of amounts appropriated above in Strategy A.1.2., Financial and Technical Assistance, $9,163,189 for the biennium is for the brush control program. These funds shall be transferred to Brush Control Fund 556 for expenditure from that fund. Out of the total appropriation for brush control, $163,189 for the biennium is to be used for the Fort Hood Brush Management Project and $1,000,000 for the biennium is to be spent on brush control feasibility studies in the following areas or river basins: Frio, Edwards Aquifer, Nueces, Pedernales, Wichita, Canadian, Upper Colorado and Middle Concho Rivers. All feasibility studies must include participation by the State Soil and Water Conservation Board, Texas Agricultural Extension Service, Texas Agricultural Experiment Station, and interested local entities, such as river authorities. A total of $8,000,000 for the biennium is to be used for brush control projects in the North Concho River Watershed. Any unexpended balances from this appropriation as of August 31, 2000 are hereby appropriated for the same purpose for the fiscal year beginning September 1, 2000.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

The Environmental Quality Incentive Program (EQIP) administered by NRCS and the WSEP are similar programs because they both contain resource management plans and offer cost share incentives for brush management in their water quantity programs. Resource management plans address brush management, deferment from grazing, water supply, raking and reseeding, and cross-fencing. The WSEP only provides cost-share funding for brush management and grazing deferment; whereas EQIP offers funding for all practices contained in the resource management plan.

Funding for the WSEP is limited to selected areas in a watershed that have been identified as the highest yielding areas within a river basin. EQIP funding is eligible for an entire watershed. EQIP also has other objectives in their program which optimize improvement of air quality, reduction of soil erosion and sedimentation, and improvement or creation of wildlife habitat for at-risk species.

Another program that provides similar services as the WSEP is the Water Quality Management Plan (WQMP) program administered by the TSSWCB. The WQMP Program also contains brush

management as a component but focuses on water quality rather than water supply enhancement. The WQMP Program involves implementing nutrient management, pest management, animal waste management systems, irrigation systems, irrigation water management, and erosion control measures.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Through the WSEP's application process the agency determines if the applicant is receiving any other state or federal funds for brush control on the same acreage. Currently, an interagency agreement is being considered between the WQMP Program and the WSEP.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The WSEP works and/or consults with a variety of entities: local SWCDs, River Authorities, TDA, Texas Water Development Board (TWDB), Texas Parks and Wildlife (TPWD), and the NRCS. Each SWCD is an independent political subdivision of state government that is governed by five directors elected by landowners in the district. 31 TAC §§517.1 - 517.12 pertains to the powers and duties of SWCDs participating in the WSEP (see Attachment 9 of this SER).

The WSEP by must consult with the TDA, TWDB, and TPWD in accordance with Chapter 203, Agriculture Code.

The TDA is a regulatory agency, but it also serves as a marketing agency for Texas agriculture and is an agency committed to rural economic and agribusiness development. TDA is an entity that can provide financial assistance to beginning farmers and ranchers and value added enterprises. The WSEP consults with the TDA on effects to agriculture.

The TWDB provides leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas. To accomplish its goals of planning for the state's water resources and for providing affordable water and wastewater services, the TWDB provides water planning, data collection and dissemination, financial assistance and technical assistance services to the citizens of Texas. The WSEP consults with TWDB in regard to the effects of the brush control program on water quantity. This is accomplished by cooperating with TWDB on ground water and stream flow monitoring, regional water needs, and regional water plans.

The TPWD's mission is to manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing, and outdoor recreation opportunities for the use and enjoyment of present and future generations. The WSEP coordinates with TPWD in regards to the effects of the brush control program on fish and wildlife.

River authorities assist the WSEP by providing local and regional knowledge into the planning process. The WSEP consults with river authorities to develop proposals and feasibility studies for projects and utilized the Upper Colorado River Authority to provide monitoring and research on the initial pilot project.

NRCS provides leadership in a partnership effort to help America's private land owners and mangers conserve their soil, water, and other natural resources. The WSEP cooperates with NRCS in developing and implementing individual landowner plans.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Contract expenditures in fiscal year 2008 are $2,254,994.48. Under this program, the State Board allocates funding to SWCDs to be used for supporting existing and implementing new brush control projects as designated by the State Board. The State Board allocates cost-share incentive payments to agricultural producers for the voluntary development and implementation of brush control plans. Through this program the agency also operates a regional office strategically located in San Angelo to provide program oversight and technical assistance to agricultural producers participating in this program.

In addition to cost-share incentive payments, six contracts are currently executed with SWCDs for administrative and technical support. Other contracts include one with with Texas Tech University for monitoring and feasibility studies, one with the Upper Colorado River Authority for monitoring and feasibility studies, and one with Health and Human Services for office related expenses in San Angelo. SWCDs and TSSWCB certify that implemented practices meet state technical requirements before incentives are paid and perform annual status reviews to verify that the implemented practices are being properly maintained in accordance with cost-share contract requirements and program rules.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Water Conservation Advisory Council Function
Location/Division	Statewide Resource Management
Contact Name	Richard Egg, Statewide Programs Engineer Mel Davis, Special Project Coordinator
Actual Expenditures, FY 2008	NA
Number of FTEs as of August 31, 2008	NA (the Executive Director has assigned staff to participate in this council)

B. What is the objective of this program or function? Describe the major activities performed under this program.

House Bill 4 passed by the 80th Texas Legislature created a Water Conservation Advisory Council to serve as an expert resource to state government and the public on water conservation matters critical to the state. The Texas State Soil and Water Conservation Board (TSSWCB) was named as one of the twenty-three entities which the council comprises.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

There has been no formal review of the council. However, the council is mandated to report to the Governor, Lieutenant Governor, and Speaker of the House on its progress and recommendations every even-numbered year. The first report submitted in December, 2008 is available online:

http://www.savetexaswater.org/documents/WCAC_report.pdf

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

NA to TSSWCB.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The activities of the council may affect water users, cities, water utilities, agricultural users, state agencies, and all citizens of the state that use, supply, or manage water.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The council is administered by the Texas Water Development Board (TWDB). Our agency has a member and an alternate that participate in the meetings and workgroups of the council.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB does not receive funding for this program function,

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

None.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

The council comprises twenty-three members representing state and federal agencies, universities, municipalities, irrigation districts, and other local and state water managing entities and interest groups.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

NA

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

This is essentially a diverse water conservation advisory group.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA to TSSWCB.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA to TSSWCB.

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Texas Invasive Species Coordinating Committee Function
Location/Division	San Angelo Water Supply Enhancement Program Office
Contact Name	Johnny Oswald, Program Supervisor [San Angelo] Mel Davis, Special Projects Coordinator [HQ]
Actual Expenditures, FY 2008	$0
Number of FTEs as of August 31, 2008	0 *(1 FTE as of September 1, 2009; new program/function for 2010-2011 biennium)*

B. What is the objective of this program or function? Describe the major activities performed under this program.

Because invasive species are likely to cause economic harm, environmental harm, or harm to human health, the Texas Invasive Species Coordinating Committee was created through House Bill 865 during the 81st Regular Legislative Session. The purpose of the Committee is to serve as a catalyst for cooperation between state agencies in the area of invasive species control and facilitate governmental efforts to prevent and manage invasive species and to mitigate the effects such species have on the economy, the environment, and people's health. House Bill 865 specified that the Committee was administratively attached the Texas State Soil and Water Conservation Board (TSSWCB).

The member agencies of the Committee include (1) the Texas Department of Agriculture (TDA), (2) the Parks and Wildlife Department (TPWD), (3) the TSSWCB, (4) the Texas AgriLife Extension Service, (5) the Texas Forest Service (TFS), (6) the Texas Water Development Board (TWDB), and (7) any other state agency that requests and receives membership by unanimous agreement of the existing members.

The Committee's duties include serving as a catalyst for cooperation between state agencies in the area of invasive species control, facilitating governmental efforts including the efforts of local governments and special districts, and preventing and managing invasive species. The Committee is also charged with making recommendations to state agencies regarding research, technology transfer, and management actions, and then facilitating an exchange of that information so that each member agency is informed of Committee plans, recommendations, and proposals for research, education, and implementation activities. These activities are intended to prevent, detect, assess, monitor, contain, and control or eradicate invasive species to reduce environmental and economic threats and threats to human health from invasive species. The Committee provides a forum for developing coordinated interagency strategies and

policies for invasive species control, and provides technical information and input to regional and national invasive species control coordination efforts, including the National Invasive Species Management Plan.

The Committee is responsible for facilitating the review of committee technical decisions and work product by specialists and interested persons, and report as needed to the governor, lieutenant governor, and speaker of the house of representatives on committee plans, work product, and accomplishments.

Each member agency of the Committee is responsible for coordinating their agency's invasive species control activities with the Committee and relevant coordinating bodies, including the National Invasive Species Council. Committee members also share with the Committee their agency's technical expertise related to invasive species, advise the Committee of known invasive species threats to natural and agricultural resources, and cooperates, to the extent allowed by law, in initiatives to obtain appropriations and grants for invasive species control.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

As this is a new committee function, no evidence currently shows its effectiveness or efficiency. As the Committee operates into the future, measures of success should include agency reports regarding invasive species control and federal appropriations made available to the State of Texas through the appropriate state agencies.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The presence of a National Invasive Species Council (NISC) established by Executive Order (EO)13112, as well as the availability of federal funding to address invasive species, lead to the need for states organize in a manner that could effectively communicate their individual needs and challenges. In order to present a coordinated message that was consistent with state governmental agency priorities, and to create a reasonable opportunity to obtain funding through federal agencies, this formalized Committee was created by the Legislature.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Information gathered by the Committee directly affects its member agencies insofar as it provides recommendations regarding priorities and strategies for controlling invasive species through each agency’s existing powers, duties, and programs. Indirectly, many local governments and private landowners on whose property control activities may be available could be affected. As a whole, the entire state will benefit from the existence of the Committee through the work carried out by member agencies to control invasive species likely to cause economic harm, environmental harm, or harm to human health.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Committee is charged with adopting bylaws to govern the Committee's operations. The bylaws provide a procedure to periodically elect one representative as Committee chair, provide a procedure to call committee meetings, require the committee to meet at least annually, and provide for the creation of subcommittees and advisory committees.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSSWCB receives no monetary appropriation for administratively coordinating the Committee, however, one full-time equivalent employee to serve as a Committee coordinator was provided by the 81st Legislature.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

There is no other program/function organized by state government to perform the duties assigned to the Committee.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

NA

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Local, regional, or federal units of government may work with one or more of the Committee's member agencies through grant programs or implementation activities made possible through those programs. As this is a new program/function, many of the working relationships are yet to be established and will likely be unique to specific situations and conditions.

K. If contracted expenditures are made through this program please provide:

- **the amount of those expenditures in fiscal year 2008;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

All contracted expenditures a member agency may make will be the sole responsibility of each individual agency based on the statute and rules for their respective programs. At this time, the TSSWCB has not initiated a contracted expenditure through one of its programs to address invasive species as a result of a Committee function. Information on existing TSSWCB contracts that may peripherally address an invasive species as a by-product of a water supply enhancement project through the Texas Brush Control Program are available in its individual program description.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

NA for TSSWCB.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

NA for TSSWCB.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2005 – 2009, or earlier significant Attorney General opinions, that affect your agency's operations.

Texas State Soil and Water Conservation Board **Exhibit 13: Statutes/Attorney General Opinions**	
Statutes	
Citation/Title	**Authority/Impact on Agency**
Texas Agriculture Code Chapter 71. General Control: Section 71.151	Relating to the Agriculture Department consulting with the State Soil and Water Conservation Board on a list of noxious and invasive plant species that have serious potential to cause economic or ecological harm to the state.
Texas Agriculture Code Chapter 201	**Enabling legislation**. Establishes the State Soil and Water Conservation Board, provides for the creation of soil and water conservation districts, establishes powers and duties, and provides for administration of conservation programs.
Texas Agriculture Code Chapter 203	**Enabling legislation**. Establishes the Texas Brush Control Program.
Texas Civil Practice And Remedies Code Chapter 102. Tort Claims Payments By Local Governments: Section 102.001	Relating to soil and water conservation districts being defined as "local government" with respect to tort claims payments.
Texas Government Code Chapter 487. Office Of Rural Community Affairs: Section 487.054	Relating to the Office of Rural Community Affairs (ORCA) convening a meeting of agency heads or their designees, including the State Soil and Water Conservation Board, to discuss rural issues and to provide information showing the impact each agency has on rural communities for use in developing rural policy and compiling an annual report under Section 487.051(4).
Texas Government Code Chapter 490e. Task Force On Economic Growth And Endangered Species: Section 490e.003	Relating to the inclusion of the Executive Director as a member of the Task Force on Economic Growth and Endangered Species.
Texas Government Code Chapter 776. Texas Invasive Species Coordinating Committee: Section 776.001	Relating to the establishment of the Texas Invasive Species Coordinating Committee, and the administrative attachment of the committee to the State Soil and Water Conservation Board.
Texas Government Code Chapter 2254. Professional And Consulting Services: Section 2254.021	Relating to soil and water conservation districts being political subdivisions of state government with respect to requirements for professional and consulting services

	contracts.
Texas Health And Safety Code Chapter 361. Solid Waste Disposal Act: Section 361.024	Relating to the Texas Commission on Environmental Quality consulting with the State Soil and Water Conservation Board on rulemaking pertaining to establishing minimum standards of operation for the management and control of solid waste.
Texas Health And Safety Code Chapter 366. On-Site Sewage Disposal Systems: Section 366.002	Relating to soil and water conservation districts being a "local governmental entity" with respect to defining "authorized agent" for the implementation and enforcement rules for on-site sewage disposal systems.
Texas Health And Safety Code Chapter 401. Radioactive Materials And Other Sources Of Radiation: Section 401.111	Relating to the Texas Commission on Environmental Quality consulting with the State Soil and Water Conservation Board on rulemaking for the issuance of licenses under the commission's jurisdiction for new sites for processing or disposal of radioactive substances.
Texas Natural Resources Code Chapter 33. Management Of Coastal Public Land: Section 33.2041	Relating to the State Soil and Water Conservation Board's inclusion on the Coastal Coordination Council.
Texas Natural Resources Code Chapter 33. Management Of Coastal Public Land: Section 33.2051	Relating to the State Soil and Water Conservation Board complying with Sections 33.205(a) and (b) when adopting or amending a rule governing agricultural or silvicultural nonpoint source pollution.
Texas Natural Resources Code Chapter 131. Uranium Surface Mining And Reclamation Act: Section 131.139	Relating to the State Soil and Water Conservation Board submitting comments on permit applications for mining operations to the General land Office within 30 days.
Texas Natural Resources Code Chapter 153. Prescribed Burning: Section 153.041	Relating to the inclusion of the State Soil and Water Conservation Board on the Prescribed Burning Board.
Texas Tax Code Chapter 23. Appraisal Methods And Procedures: Section 23.9801	Relating to a management plan for appraisal of restricted-use timber land being consistent with the agricultural and silvicultural nonpoint source pollution management program administered by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.
Texas Transportation Code Chapter 223. Bids And Contracts For Highway Projects: Section 223.044	Relating to the State Soil and Water Conservation Board entering into a contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision to perform a brush control project described by Subsection (e) or under Chapter 203, Agriculture Code.
Texas Water Code Chapter 5. Texas Natural Resource Conservation Commission: Section 5.605	Relating to the State Soil and Water Conservation Board participating and providing assistance to the estuary programs in implementing approved comprehensive conservation and management plans.
Texas Water Code Chapter 10. Water Conservation Advisory Council: Section 10.003	Relating to the inclusion of the State Soil and Water Conservation Board on the Water Conservation Advisory Council.
Texas Water Code Chapter 15. Texas Water Assistance Program: Section 15.613	Relating to the duty of an eligible lending institution obtaining certification of a water quality management plan from the executive director of the State Soil and Water Conservation Board in conjunction with an application for funding under the Safe Drinking Water Revolving Fund administered by the Texas Water Development Board.

Texas Water Code Chapter 16. Provisions Generally Applicable To Water Development: Section 16.022	Relating to Texas Water Development Board and the State Soil and Water Conservation Board jointly conducting a study of the ways to improve or expand water conservation efforts and report to the legislature.
Texas Water Code Chapter 17. Public Funding: Section 17.897	Relating to a "conservation program" under the Agricultural Water Conservation Bond Program of the Texas Water Development Board including programs for on-farm soil and water conservation plans developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code.
Texas Water Code Chapter 26. Water Quality Control: Section 26.0135	Relating to watershed monitoring and assessment of water quality by the Texas Commission on Environmental Quality involving agricultural or silvicultural nonpoint source pollution being coordinated through the State Soil and Water Conservation Board with local soil and water conservation districts.
Texas Water Code Chapter 26. Water Quality Control: Section 26.0136	Relating to the Texas Commission on Environmental Quality coordinating all water quality management functions for abating agricultural or silvicultural nonpoint source pollution through the State Soil and Water Conservation Board, as provided by Section 201.026, Agriculture Code.
Texas Water Code Chapter 26. Water Quality Control: Section 26.121	Relating to the Texas Commission on Environmental Quality authorizing discharges to any water in the state when the discharge complies with a person's certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code.
Texas Water Code Chapter 26. Water Quality Control: Section 26.1311	Relating to the State Soil and Water Conservation Board and its authorized agents being designated as responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source pollution as provided by Section 201.026, Agriculture Code.
Texas Water Code Chapter 26. Water Quality Control: Section 26.302	Relating to (1) a person who owns or operates a poultry facility being required to implement and maintain a water quality management plan for the facility that is certified by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code, (2) the State Soil and Water Conservation Board being authorized to certify a water quality management plan for a poultry facility that does not use a liquid waste handling system and is required to obtain a permit or other authorization from the commission, and (3) the State Soil and Water Conservation Board not certifying a water quality management plan for a poultry facility located less than one-half of one mile from a business, off-site permanently inhabited residence, or place of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides an odor control plan the executive director determines is sufficient to control odors.
Texas Water Code Chapter 26. Water Quality Control: Section 26.403	Relating to the inclusion of the executive director of the State Soil and Water Conservation Board as a member

	of the Texas Groundwater Protection Committee.
Texas Water Code Chapter 26. Water Quality Control: Section 26.406	Relating to the State Soil and Water Conservation Board maintaining a public file of all documented cases of groundwater contamination that are reasonably suspected of having been caused by activities regulated by the agency.
Texas Water Code Chapter 26. Water Quality Control: Section 26.503	Relating to detailed nutrient utilization plans developed by the State Soil and Water Conservation Board for historical waste application fields within the scope of an individual permit issued or amended by the Texas Commission on Environmental Quality.
Federal Clean Water Act: Section 319	Requires development and implementation of a state nonpoint source management program.
Federal Clean Water Act: Section 303	Requires states to identify water bodies not meeting water quality standards and to develop and implement total maximum daily loads.
Federal Coastal Zone Management Act	Requires development and implementation of a coastal nonpoint source program.
Attorney General Opinions	
Attorney General Opinion No.	**Impact on Agency**
MW-403 dated December 3, 1981	Establishes that local soil and water conservation district directors may legally serve on the State Soil and Water Conservation Board at the same time.

B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 14 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board Exhibit 14: 81st Legislative Session Chart		
Legislation Enacted – 81st Legislative Session		
Bill Number	**Author**	**Summary of Key Provisions**
HB 4586	Rep. Jim Pitts	Relating to making supplemental appropriations and reductions in appropriations and giving direction and adjustment authority and prescribing limitations regarding appropriations; included $54,664.00 for SWCD director mileage reimbursements in 2009.
SB1693	Sen. Steve Ogden	Relating to the regulation of poultry facilities and poultry litter by the State Soil and Water Conservation Board and to the enforcement authority of the Texas Commission on Environmental Quality.
HB 865	Rep. David Swinford	Relating to the establishment of the Texas Invasive Species Coordinating Committee.
Legislation Not Passed – 81st Legislative Session		
Bill Number	**Author**	**Summary of Key Provisions/Reason the Bill Did Not Pass**
HB 2872	Rep. Warren Chisum	Relating to the establishment by the State Soil and Water Conservation Board of a carbon dioxide sequestration or emissions offset program.

IX. Policy Issues

A. Brief Description of Issues

An obstacle the TSSWCB must perpetually manage is the difficulty in administering cost-sharing programs for conservation practices that are both bound by the constraints of weather and seasonal variations as well as the constraints of a biennial budget cycle.

B. Discussion

Many conservation practices can only be successfully implemented when precipitation is favorable for the establishment of vegetation, or when the weather conditions are suitable for the use of chemical herbicides. Often, funding that is contractually obligated for a specific purpose is delayed due to unfavorable conditions, increasing the possibility that the funding will be lapsed back into the state treasury before the work can be accomplished. Having the ability to expand the period time within which contracted obligations could be liquidated would likely decrease the amount of funding removed from those programs due to lapses, and increase the amount of conservation installed on Texas lands.

C. Possible Solutions and Impact

The ability to carry contractually obligated funds into future biennia would alleviate the difficulties that "construction-oriented" programs experience due to weather and seasonal factors that impede implementation. Any mechanisms that are available for increasing the agency's flexibility would enhance the delivery of programs.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.

Texas State Soil and Water Conservation Board Exhibit 15: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	**Address**	**Telephone**	**E-mail Address**
Association of Texas Soil and Water Conservation Districts/Tamara Daniel	4311 South 31st Street P.O. Box 658 Temple, TX 76503	(512) 818-1660	tamaradaniel@thegateway.net
Corn Producers Association of Texas/David Gibson	4205 North I-27 Lubbock, TX 79403	(806) 763-2676	dgibson@texascorn.org
Independent Cattlemen's Association of Texas/Bill Hyman	PO Box 1168 Lockhart, TX 78644-1168	(512) 620-0162	tica@icatexas.com
Plains Cotton Growers, Inc./Steve Verett	4517 West Loop Lubbock, TX 79414	(806) 792-4904	steve@plainscotton.org
Texas Association of Watershed Sponsors/Dale Mengers	PO Box 674 Temple, TX 76503	(254) 778-1961	elmcreekwsa@sbcglobal.net
Texas Association of Dairymen/John Cowan	3500 William D. Tate Avenue, Grapevine, TX 76051-7102	(817) 410-4540	jcowan@milk4texas.org
Texas Cattle Feeders Association/Ross Wilson	5501 West I-40 Amarillo, TX 79106	(806) 358-3681	ross@tcfa.org
Texas Cotton Ginners Association/Tony Williams	408 West 14th Street Austin, TX 78701-1619	(512) 476-8388	tony@tcga.org
Texas Farm Bureau/Billy Howe	1005 Congress, Suite 555 Austin, TX 78701	(512) 472-8288	bhowe@txfb.org
Texas Forestry Association/Ron Hufford	PO Box 1488 Lufkin, TX 75902-1488	(936) 632-8733	rhufford@texasforestry.org
Texas Irrigation Council/Wayne Halbert	301 E. Pierce Harlingen, TX 78551	(956) 423-7015	halbwayn@aol.com
Texas Pork Producers Association/Ken Horton	PO Box 10168 Austin, TX 78766	(512) 453-0615	ken@texaspork.org
Texas Poultry Federation/James Grimm	595 Round Rock West Drive Suite 305 Round Rock, TX 78681	(512) 248-0600	jgrimm@texaspoultry.org
Texas Sheep and Goat Raisers Association	PO Box 2290 San Angelo, TX 76902	(325) 655-7388	tsgra@wcc.net
Texas and Southwestern Cattle Raisers Association/Jason Skaggs	1005 Congress Ave. Suite 825 Austin, TX 78701	(512) 469-0171	jskaggs@texascattleraisers.org

Texas Wildlife Association/Kirby Brown	401 Isom Road Suite 237 San Antonio, TX 78216	(210) 826-2904	k_brown@texas-wildlife.org
INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency)			
Group or Association Name/ Contact Person	**Address**	**Telephone**	**E-mail Address**
National Association of Conservation Districts	509 Capitol Ct. NE Washington D.C. 20002	(202) 547-6223	Doug-loudenslager@nacdnet.org
National Association of State Conservation Agencies	3903 Cook St. Alexandria, VA 22311	(703) 399-5594	Sarah-hickling@nascanet.org
LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	**Address**	**Telephone**	**E-mail Address**
Texas Commission on Environmental Quality/Clyde Bohmfalk	P.O. Box 13087 Austin, Texas 78753	(512) 239-1315	cbohmfal@tceq.state.tx.us
Texas Department of Agriculture/Kelly Stripling	P.O. Box 12847, Austin TX 78711	(512) 463-6020	Kelley.Stripling@TexasAgriculture.gov
Texas Water Development Board/Comer Tuck	P.O. Box 13231 Austin, Texas 78711	(512) 936-2343	Comer.Tuck@twdb.state.tx.us
Texas AgriLife Extension/Sam Feagley	TAMU-Soil and Crop Sciences Department College Station, TX 77843-2474	(979) 845-1460	s-feagley@tamu.edu
Texas Water Resources Institute/Bill Harris	2118 Texas A&M University College Station, Texas 77843	(979) 845-1851	bl-harris@tamu.edu
Texas Institute for Applied Environmental Research/Dan Hunter	Tarleton State University Mail Stop T-0410 Stephenville, TX 76402	(254) 968-9567	dhunter@tiaer.tarleton.edu
Texas Forest Service/Hughes Simpson	PO Box 310 Lukfin, TX 75902-0310	(936) 639-8180	hsimpson@tfs.tamu.edu
General Land Office/Tammy Brooks	P. O. Box 12873 Austin, Texas 78711-2873	(512) 463-5001	tammy.brooks@glo.state.tx.us
Legislative Budget Board/Aaron Henricksen	P.O. Box 12666 Capitol Station Austin, Texas 78711	(512) 475-1200	Aaron.Henricksen@lbb.state.tx.us
Attorney General's Office/George Noelke	P.O. Box 12548 Austin, Texas 78711-2548	(512) 475-3206	george.noelke@oag.state.tx.us
LIAISONS AT FEDERAL AGENCIES			
USDA – Natural Resources Conservation Service/Don	101 South Main Street Temple, TX 76501	(254) 742-9800	Don.Gohmert@tx.usda.gov

Gohmert			
USDA – Agricultural Research Service/Daren Harmel	808 East Blackland Road Temple, TX 76502	(254) 770-6521	Daren.Harmel@ARS.USDA.GOV
US Environmental Protection Agency/Randy Rush	1445 Ross Avenue Suite 1200 Dallas, Texas 75202	(214) 665-7107	Rush.Randall@epamail.epa.gov
US Geological Survey/Robert Joseph	8027 Exchange Dr. Austin, TX 78754-4733	(512) 927-3500	rljoseph@usgs.gov

XI. Additional Information

A. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.

Texas State Soil and Water Conservation Board
Exhibit 16: Complaints Against the Agency — Fiscal Years 2007 and 2008

	FY 2007	FY 2008
Number of complaints received	20	100
Number of complaints resolved	20	100
Number of complaints dropped/found to be without merit	7	72
Number of complaints pending from prior years	1	1
Average time period for resolution of a complaint	21 days	12.73 days

B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases. See Exhibit 17 Example or click here to link directly to the example.

Texas State Soil and Water Conservation Board Exhibit 17: Purchases from HUBs				
FISCAL YEAR 2006				
Category	**Total $ Spent**	**Total HUB $ Spent**	**Percent**	**Statewide Goal**
Heavy Construction	0	0	0	11.9%
Building Construction	0	0	0	26.1%
Special Trade	65.00	0	0	57.2%
Professional Services	0	19,000.00	100 %	20.0%
Other Services	1,051,193.00	478.00	.045 %	33.0%
Commodities	159,008.00	21,721.00	13.6 %	12.6%
TOTAL	1,188,147.00	55,206.00		
FISCAL YEAR 2007				
Category	**Total $ Spent**	**Total HUB $ Spent**	**Percent**	**Statewide Goal**
Heavy Construction	0	0	0	11.9%
Building Construction	0	0	0	26.1%
Special Trade	2,600.00	0	0	57.2%
Professional Services	18,000.00	18,000.00	100 %	20.0%
Other Services	941,752.00	24,130.00	2.56%	33.0%
Commodities	139,755.00	33,088.00	23.6 %	12.6%
TOTAL	1,102,108.00	75,218.00		
FISCAL YEAR 2008				
Category	**Total $ Spent**	**Total HUB $ Spent**	**Percent**	**Statewide Goal**
Heavy Construction	0	0	0	11.9%
Building Construction	0	0	0	26.1%
Special Trade	6,911.00	0	0	57.2%
Professional Services	32,255.00	18,000.00	55.8 %	20.0%
Other Services	2,364,296.00	3,170.00	.134 %	33.0%
Commodities	171,186.00	5,129.00	2.99 %	12.6%
TOTAL	2,574,649.00	26,299.00		

C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

Yes. The TSSWCB addresses performance shortfalls related to the policy by continually checking for HUB vendors that provide needed products and services.

D. For agencies with contracts valued at $100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of $100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

Yes.

E. For agencies with biennial appropriations exceeding $10 million, answer the following HUB questions.

	Response / Agency Contact
1. Do you have a HUB coordinator? (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)	Yes, we have a HUB coordinator.
2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)	Yes. Visit with a vendor in-house at the agency, or HUB coordinator meets with vendor at their business to hear the vendors business presentation.
3. Has your agency developed a mentor-protege program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)	Yes, we have developed a mentor-protégé program, but have been unsuccessful in getting a Mentor or Protégé committed to the program.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.[1] See Exhibit 18 Example or click here to link directly to the example.

Texas State Soil & Water Conservation Board Exhibit 18: Equal Employment Opportunity Statistics							
FISCAL YEAR 2006							
Job Category	**Total Positions**	**Minority Workforce Percentages**					
		Black		**Hispanic**		**Female**	
		Agency	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**
Officials/Administration	10	0%	6.6%	10.0%	14.2%	10.0%	37.3%
Professional	40	2.5%	8.3%	7.5%	13.4%	26.88%	53.2%
Technical	6	0%	12.4%	16.67%	20.2%	16.67%	53.8%
Administrative Support	0	0%	11.2%	0%	24.1%	0%	64.7%
Service Maintenance	6.5	15.38%	13.8%	19.23%	40.7%	100%	39.0%
Skilled Craft	0	0%	6.0%	0%	37.5%	0%	4.8%
FISCAL YEAR 2007							
Job Category	**Total Positions**	**Minority Workforce Percentages**					
		Black		**Hispanic**		**Female**	
		Agency	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**
Officials/Administration	10.25	0%	9.0%	9.76%	23.7%	9.76%	38.8%
Professional	41.5	2.41%	11.7%	7.23%	19.9%	32.53%	54.5%
Technical	5.5	0%	17.0%	18.18%	27.0%	18.18%	55.6%
Administrative Support	3.5	21.43%	13.2%	42.86%	31.9%	100%	66.2%
Service/Maintenance	2.75	9.09%	12.8%	18.18%	44.8%	100%	39.7%
Skilled Craft	0	0%	5.1%	0%	46.9%	0%	5.1%
FISCAL YEAR 2008							
Job Category	**Total Positions**	**Minority Workforce Percentages**					
		Black		**Hispanic**		**Female**	
		Agency	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**	**Agency**	**Civilian Labor Force %**
Officials/Administration	10	0%	9.0%	10.00%	23.7%	10.00%	38.8%
Professional	47.25	2.12%	11.7%	6.88%	19.9%	38.62%	54.5%
Technical	5	0.00%	17.0%	20.00%	27.0%	20.00%	55.6%

[1] The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals are no longer reported as separate groups. Please submit the combined Service/Maintenance category totals, if available.

Administrative Support	6	16.67%	13.2%	33.33%	31.9%	100%	66.2%
Service/Maintenance	0	0%	12.8%	0%	44.8%	0%	39.7%
Skilled Craft	0	0%	5.1%	0%	46.9%	0%	5.1%

G. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

The Texas State Soil and Water Conservation Board (TSSWCB) has an equal employment opportunity policy. The TSSWCB has not experienced any performance shortfalls with regard to this policy.

XII. Agency Comments

The primary purpose of the Texas State Soil and Water Conservation Board (TSSWCB) is to encourage the wise and productive use of Texas' natural resources through the voluntary cooperation of agricultural producers and other rural landowners.

An examination of the "delivery system" that the TSSWCB and local soil and water conservation districts (SWCDs) present for the state provides ample evidence that it is the most efficient and effective mechanism for conducting natural resource conservation and protection programs. Eighty (80) percent of all funding administered by the agency is exclusively "pass-through" to end-users such as agricultural producers or other rural landowners. The TSSWCB has maintained a very low 3% indirect administrative rate for the last three biennia, which is a continuing high priority of the State Board. The remaining 17% is made up of technical program support provided to local SWCDs and agricultural producers through a network of regional offices and field personnel. The TSSWCB recognizes that these efficiencies are made possible because the agency's main program responsibilities are administered through the assistance of SWCDs at the local level. Without their local presence and viability, the overall cost in administering agency programs would likely be significantly higher.

The TSSWCB believes this conservation delivery system provides a tremendous value for the state from a *conservation-results*, and *cost efficiency* perspective. The agency looks forward to continuing the use of this system for its current programs and services, as well as any applicable future opportunities.