

Effective 5/12/2020

**Part 3
Contract Water Banks**

73-31-301 Approval of contract water bank.

- (1) The board shall approve an application to create a contract water bank that satisfies this part.
- (2) As a condition of approval, a contract water bank is subject to this chapter.

Enacted by Chapter 342, 2020 General Session

73-31-302 Contract water bank application.

- (1) A public entity may seek to have a contract for water use approved as a contract water bank under this chapter by submitting an application to the board that meets the following criteria:
 - (a) the name of the contract water bank;
 - (b) the mailing address for the contract water bank;
 - (c) the proposed service area map for the contract water bank;
 - (d) a description of how the contract water bank's governing body will be structured and operate;
 - (e) a description for how water delivery requests and loaned water rights are to be administered;
 - (f) criteria for the participation, if any, of non-public entities;
 - (g) includes a copy of the contract, provided that a public entity may redact any information that is private, controlled, protected, or otherwise restricted under Title 63G, Chapter 2, Government Records Access and Management Act;
 - (h) information regarding how the public can learn when the submittal of an application or contract that is the basis of the contract water bank is on the agenda of a public meeting of the public entity under Title 52, Chapter 4, Open and Public Meetings Act;
 - (i) whether the contract water bank will accept deposits of surface water rights or groundwater rights, provided that a contract water bank may not accept deposits of both surface water rights and groundwater rights; and
 - (j) the process the contract water bank will follow if the contract water bank terminates, dissolves, or the board revokes the contract water bank's approval to operate pursuant to this chapter, including how the contract water bank will return banked water rights to depositors and how the contract water bank will return any amounts owing to depositors.
- (2) The board may prepare a form or online application for an applicant to use in submitting an application to the board under this part.

Enacted by Chapter 342, 2020 General Session

73-31-303 Action by board on contract water bank application.

- (1) Upon receipt of an application for a proposed contract water bank, the board shall record the day on which the board receives the application.
- (2) The board shall:
 - (a) examine the application to determine whether changes are required for the board to process the application in accordance with this part;
 - (b) review the application to determine whether it meets the objectives of a water bank described in Section 73-31-103;
 - (c) consider the application complete if the application satisfies this part; and

- (d) notify the applicant of any additional information or changes needed to process the application.
- (3) Within 30 days of the date the board determines that an application is complete, the board shall post notice of the application in accordance with Section 73-31-103.
- (4) The notice required by Subsection (3), shall state:
 - (a) that an application to approve a contract water bank has been filed with the board; and
 - (b) where a person may review the application.

Enacted by Chapter 342, 2020 General Session

73-31-304 Review of contract water bank application.

- (1) After complying with Section 73-31-303, the board shall approve an application for a contract water bank if the application satisfies Section 73-31-302, which is to be liberally interpreted by the board to facilitate the objectives described in Section 73-31-104.
- (2) In approving an application, the board shall:
 - (a) issue an order approving the contract water bank; and
 - (b) publish a summary of the information submitted by the public entity under Subsection 73-31-302(1) on the water banking website.
- (3) If the board denies an application, the board shall issue a written explanation to the applicant that sets forth the reason for the denial, provided that the board's decision regarding an application does not create a right of appeal under Title 63G, Chapter 4, Administrative Procedures Act.
- (4) A contract water bank may review public comments and comments from the board before a final decision is made by the board. If the contract water bank desires to make changes to the contract water bank's application, the contract water bank may notify the board in writing before the board takes action on the application that the contract water bank will submit a revised application following the same process that governs the filing of an original application.

Enacted by Chapter 342, 2020 General Session

73-31-305 Amending application.

- (1) After the board approves a contract water bank's application under this part, the contract water bank may seek to amend the contract water bank's application by filing a description of the proposed amendment with the board. The board shall follow the procedures of Sections 73-31-303 and 73-31-304 to approve an amendment to a contract water bank's application.
- (2) An amendment approved by the board becomes effective on the first day of the next reporting year.

Enacted by Chapter 342, 2020 General Session