TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed Rulemaking

AGENDA REQUESTED: March 28, 2012

DATE OF REQUEST: March 9, 2012

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Charlotte Horn, (512) 239-o779

CAPTION: Docket No. 2011-1244-RUL. Consideration for publication of, and hearing on, proposed amended Section 298.290 and new Sections 298.300, 298.305, 298.310, 298.315, 298.320, 298.325, 298.330, 298.335, 298.340, 298.350, 298.355, 298.360, 298.365, 298.370, 298.375, 298.380, 298.385, and 298.390 of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water.

The proposed rulemaking would implement House Bill 3 and Senate Bill 3, 80th Legislature, 2007, Regular Session, relating to the establishment of environmental flow standards included in a permit or amended water right in the river and bay systems consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays, and the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays. Additionally, the rulemaking will amend the schedule for the revision of standards for the Sabine and Neches Rivers and Sabine Lake Bay. (Ron Ellis, Robin Smith) (Rule Project No. 2011-059-298-OW)

L'Oreal Stepney, P.E.
Deputy Director

Kellye Rila
Division Director

Charlotte Horn
Agenda Coordinator

Copy to CCC Secretary? NO YES X

Texas Commission on Environmental Quality
Interoffice Memorandum

To: Commissioners **Date:** March 9, 2012

Thru: Bridget C. Bohac, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: L'Oreal W. Stepney, P.E., Deputy Director
Office of Water

Docket No.: 2011-1244-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 298, Environmental Flow Standards for Surface Water
Environmental Flow Standards 2: Colorado/Lavaca and Guadalupe/San Antonio and Revisions to the schedule for the Sabine and Neches Rivers
Rule Project No. 2011-059-298-OW

Background and reason(s) for the rulemaking:
House Bill 3 and Senate Bill 3 (HB 3/SB 3), 80th Legislature, 2007, created the environmental flows process and established the Environmental Flows Advisory Group (Advisory Group) to oversee its implementation. HB 3/SB 3 also established the Environmental Flows Science Advisory Committee, local bay and basin area stakeholder committees (BBASC), and local bay and basin expert science teams (BBEST). A BBEST develops environmental flow analyses and recommends an environmental flow regime, based solely on the best science available, to their basin's BBASC. A BBASC, while considering the BBEST's recommendations and other factors, develops recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submits those recommendations to the Advisory Group and to the commission for rulemaking. The BBASCs also developed a work plan for adaptive management which includes a schedule for review and potential revision of the standards and strategies and submits the work plan to the Advisory Group for approval. HB 3 was authored by Representative Robert Puente and Representative Harvey Hilderbran. SB 3 was authored by Senator Kip Averitt.

Article 1, HB 3 and Article 1, SB 3 amended Texas Water Code (TWC), §§11.002, 11.023, 11.0235, 11.0841, 11.134, 11.147, 11.1471, 11.148, and 11.1491. HB 3/SB 3 added TWC, §§11.0236, 11.02361, 11.02362, 11.0237, and 15.4063. These HB 3/SB 3 amendments to the TWC codified the environmental flows process and its implementation. The amendment to TWC, §11.1471 specifically instructed the commission to adopt environmental flow standards by rule. The amendment to TWC, §11.1471 and §11.02362, provided for adaptive management and codified a process for revision to the standards if the BBASC's recommended a schedule other than every ten years.

This rulemaking implements TWC, §11.1471(a), through 30 Texas Administrative Code Chapter 298, by proposing appropriate environmental flow standards for the river and bay systems consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays, and the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano,

Aransas, and San Antonio Bays. This rulemaking also implements TWC, §11.1471(f) and §11.02352(p) by amending §298.290 for the Sabine and Neches Rivers and Sabine Lake Bay to incorporate the schedule in the approved work plan for these basin and bay systems.

Scope of the rulemaking:
A.) Summary of what the rulemaking will do:
The scope of the proposed rulemaking is to implement the directive in TWC, §11.1471 for the two river basin and bay systems consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays, and the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays. The rulemaking will propose appropriate environmental flow standards. Additionally, the rulemaking will amend the schedule for the revision of standards for the Sabine and Neches Rivers and Sabine Lake Bay.

B.) Scope required by federal regulations or state statutes:
TWC, §11.1471(a) states that the commission by rule shall adopt appropriate environmental flow standards for each river basin in the state; establish an amount of unappropriated water, if available, to be set aside to satisfy environmental flow standards. TWC, §11.1471(f) states that the adopted environmental flow standards may be altered by the commission in a rulemaking process undertaken in accordance with a schedule established by the commission that considers the approved work plan.

C.) Additional staff recommendations that are not required by federal rule or state statute:
None.

Statutory authority:
TWC, §§5.102, 5.103, 5.105, 11.0235, 11.02362, 11.147, and 11.1471.

Effect on the:
A.) Regulated community:
Members of the regulated community who apply for a new appropriation of state water will be affected by the environmental flow standard recommended by this proposed rulemaking. An application for a new appropriation of state water will be recommended for issuance only if there is water available after the environmental flow standard has been met. The result will be that there could be less state water available for appropriation. However, because the proposed standards are expected to function similarly to current streamflow restrictions for applications, the proposed standards are not expected to have significant fiscal implications for the regulated community.

The amendment to §298.290 for the Sabine and Neches Basins and Sabine Lake Bay should have no impact on members of the regulated community because the amendment only changes an existing schedule for review of standards.

B.) Public:
The proposed rules may affect applicants for new appropriations and amendments that increase the amount of water to be taken, stored, or diverted which could result in an applicant having to secure an additional source of water. However, because stream-flow restrictions are currently applied to new appropriations of water under existing practice and the proposed standards are expected to function similarly to current streamflow restrictions for applications, the proposed standards are not expected to have significant fiscal implications for the public.

The amendment to §298.290 for the Sabine and Neches Basins and Sabine Lake Bay should have no impact on members of the public because the amendment only changes an existing schedule for review of standards.

C.) Agency programs:
The proposed rulemaking would have little impact on agency programs. The Water Availability Division will implement the rules when processing applications for new appropriations in the affected river basins. Currently, program staff uses a desktop methodology to determine instream flow requirements. Assigning a flow requirement by rule will have little or no impact on processing times or workloads. The impact on the Office of Compliance and Enforcement will likewise be insignificant. Presently, enforceable instream flow requirements are placed in water use permits. After the proposed rulemaking is effective, those flow requirements will come from a different source (the adopted rule), but will not be enforced any differently by the Office of Compliance and Enforcement.

Changing the schedule for review and possible revisions of the rules will not affect agency programs because the review and possible revision of the rules would currently occur under the existing adopted rules.

Stakeholder meetings:
A stakeholder meeting was held on November 3, 2011, in Austin, Texas. TCEQ staff presented general information about the proposed rulemaking and asked the stakeholders for feedback on the issue of balancing human and other competing needs for water. The meeting was attended by 29 stakeholders representing a broad spectrum of interests in the basins affected by this rulemaking and across the state. The commission received over 2,100 comment letters from stakeholders and their feedback has been considered in development of the proposed rules. Additionally, the TCEQ will hold a public hearing during the comment period.

Potential controversial concerns and legislative interest:
HB 3/SB 3 has legislative interest. The Advisory Group consists of nine members, appointed by the Governor, Lieutenant Governor, and Speaker of the House of Representatives. Six of those members are legislators, including the chairs of the Senate and House Natural Resource Committees.

Colorado and Lavaca Rivers and Matagorda and Lavaca Bays
The stakeholders submitted a consensus recommendation. TCEQ staff is unaware of any potential controversial concerns at this time.

Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays
A potential controversial concern related to the proposed rulemaking lies in the fact that the BBASC for this basin and bay system adopted their recommendations by a majority vote. Some stakeholders expressed concerns regarding freshwater inflow standards and implementation of those standards as well as concerns regarding the complexity of the recommended environmental flow standards for the Guadalupe River and its associated tributaries.

Will this rulemaking affect any current policies or require development of new policies?
HB 3/SB 3 established a new policy for application of instream flow requirements in applications for new appropriations of state water. This rulemaking proposes to implement that policy and replace existing TCEQ practices for the affected river basins.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?
TWC, §11.1471 directs the commission to adopt a rule by September 1, 2012. This rulemaking complies with the statute and keeps the environmental flows process on schedule. Any alternative course of action would not be in compliance with the timetables established by HB 3/SB 3, as amended by the Advisory Group.

TWC, §11.1471(f), states that the adopted environmental flow standards may be altered by the commission in a rulemaking process undertaken in accordance with a schedule established by the commission that considers the approved work plan. The work plan for the Sabine and Neches Rivers and Sabine Lake Bay was approved by the Advisory Group on September 8, 2011 and recommends a different schedule than that in the currently adopted rule for this basin and bay system.

Key points in the proposal rulemaking schedule:
Anticipated proposal date: March 28, 2012
Anticipated *Texas Register* publication date: April 13, 2012
Public hearing date (if any): May 8, 2012
Public comment period: April 13, 2012 - May 14, 2012
Anticipated adoption date: August 8, 2012

Re: Docket No. 2011-1244-RUL

Agency contacts:
Ron Ellis, Rule Project Manager, 239-1282, Water Availability Division
Robin Smith, Staff Attorney, 239-0463
Charlotte Horn, Texas Register Coordinator, 239-0779

Attachments
SB 3, 80th Legislative Session
HB3, 80th Legislative Session

cc: Chief Clerk, 2 copies
Executive Director's Office
Susana M. Hildebrand, P.E.
Anne Idsal
Curtis Seaton
Ashley Morgan
Office of General Counsel
Ron Ellis
Charlotte Horn

The Texas Commission on Environmental Quality (TCEQ or commission) proposes to amend §298.290 and proposes new §§298.300, 298.305, 298.310, 298.315, 298.320, 298.325, 298.330, 298.335, 298.340, 298.350, 298.355, 298.360, 298.365, 298.370, 298.375, 298.380, 298.385, and 298.390.

Background and Summary of the Factual Basis for the Proposed Rules

In 2007, the 80th Legislature passed House Bill 3 (HB 3), relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows; and Senate Bill 3 (SB 3), relating to the development, management, and preservation of the water resources of the state. Both of these bills amended Texas Water Code (TWC), §11.1471, which requires the commission to adopt rules related to environmental flow standards and set-asides. The commission is proposing to implement the environmental flow provisions of HB 3, Article 1, and SB 3, Article 1, and proposes environmental flow standards for the Colorado and Lavaca Rivers, their associated tributaries, and Matagorda and Lavaca Bays; and the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays.

Prior to HB 3/SB 3, the commission had authority to protect environmental interests as it permitted state surface water. The commission had authority to maintain: existing instream uses under TWC, §11.147(d); water quality under TWC, §11.147(d) and §11.150;

fish and wildlife habitat under TWC, §11.147(e) and §11.152; and freshwater inflows to bay and estuary systems under TWC, §11.147(a) - (c). TWC, §11.147(b) - (e) and §11.152 required that these environmental considerations be included only to the extent practicable or reasonable and required that environmental considerations be considered along with other factors of public welfare. HB 3/SB 3 did not make major changes to this commission authority.

The commission also retains its ability, granted prior to HB 3/SB 3, to place special conditions in water right permits to protect environmental interests. Before HB 3/SB 3, TWC, §11.134(b)(3)(D), required consideration of environmental interests for new appropriations of water, including amendments that granted an increase in the amount of water that could be diverted, and TWC, §11.085, required consideration of environmental interests for interbasin transfers. Permits for water projects that call for the re-diversion of wastewater or return flows to a watercourse, so called "indirect reuse" projects, were also subject to special conditions to protect environmental uses under TWC, §11.042 and §11.046. Amendments that were not new appropriations were required to be authorized if, among other criteria, the amendment would not cause adverse impact to the environment of greater magnitude than under the original permit under TWC, §11.122(b). As a practical matter, if any adverse impact to the environment was noted in an application for an amendment, then special conditions were crafted to remove the adverse impact so that the amendment might be granted.

HB 3/SB 3 changed the process by which the state would decide the flow that needed to be preserved in the watercourse for the environment and the balancing of environmental interests along with other public interests. HB 3/SB 3 created a statewide Environmental Flows Advisory Group (Advisory Group). The Advisory Group was given the responsibility to appoint Basin and Bay Area Stakeholder Committees (the stakeholder committee) for each of the state's river basin, bay, and estuary systems. The stakeholder committees, in turn, appointed a Basin and Bay Expert Science Team (the science team). The science teams were to develop a recommended environmental flow regime, or schedule of flow quantities adequate to support a sound ecological environment. The stakeholders were to take the science team's recommendations and consider those recommendations in conjunction with other factors, including the present and future needs for water for other uses. The stakeholders were also to report their recommendations to the commission. Both the science teams and the stakeholder committees were to reach their recommendations on a consensus basis to the maximum extent possible. The commission, in turn, is to take the recommendations from the science team, the stakeholder committees, the Advisory Group, and a statewide Science Advisory Committee (SAC), and consider that information along with other information and by rule adopt environmental flow standards for each basin and bay system. At the same time the commission is to establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum

extent reasonable when considering human water needs. Once the environmental flow standards are adopted, the commission's objective or goal will be to protect the standards, along with the interests of senior water right holders, in its water rights permitting process for new appropriations and amendments that increase the amount of water to be taken, stored, or diverted. Under HB 3/SB 3, the commission may use the set-aside or use its existing authority to place special conditions in permits to protect the environmental flow standards.

The commission received the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays science team report on March 1, 2011, and the stakeholder committee report on August 31, 2011. The commission received the Guadalupe, San Antonio, Mission, and Aransas Rivers and Copano, Aransas, and San Antonio Bays science team report on March 1, 2011, and the stakeholder committee report on September 1, 2011. Copies of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays reports are available on the following Web site:
http://www.tceq.texas.gov/permitting/water_rights/eflows/colorado-lavaca-bbsc.

Copies of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Copano, Aransas, and San Antonio Bays reports are available on the following Web site:
http://www.tceq.texas.gov/permitting/water_rights/eflows/guadalupe-sanantonio-bbsc.

The commission proposes Subchapter D to cover the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays. The commission proposes Subchapter E to cover the Guadalupe, San Antonio, Mission, and Aransas Rivers and Copano, Aransas, and San Antonio Bays.

HB 3/SB 3 also added TWC, §11.02362(p), which recognized the importance of adaptive management and provided that after submitting its recommendations regarding environmental flow standards and strategies to meet the environmental flow standards to the commission, each stakeholder committee prepare and submit a work plan for approval by the advisory group. The work plan is to establish a periodic review of the basin and bay environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies, prescribe specific monitoring, studies, and activities; and establish a schedule for continuing the validation or refinement of the basin and bay environmental flow analyses and environmental flow regime recommendations, the environmental flow standards adopted by the commission, and the strategies to achieve those standards.

The environmental flow standards for the Sabine and Neches Rivers and Sabine Lake Bay were adopted on April 20, 2011 and effective on May 15, 2011. On September 8, 2011, the advisory group approved a work plan and work plan addendum submitted by

the Sabine and Neches Rivers and Sabine Lake Bay stakeholders. The work plan recommends a schedule for review of the environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies. Therefore, the commission is proposing to amend §298.290 for the Sabine and Neches Rivers and Sabine Lake Bay to change the schedule for revision of the standards.

Section by Section Discussion

Subchapter C: Sabine and Neches Rivers and Sabine Lake Bay

§298.290, Schedule for Revision of Standards

The commission proposes to amend §298.290 to provide for a changed schedule for re-examination of the environmental flow standards. On September 8, 2011, the advisory group approved a work plan and work plan addendum submitted by the Sabine and Neches Rivers and Sabine Lake Bay stakeholders. The work plan proposes a schedule for review of the environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies. The stakeholders proposed that the environmental flow standards be reviewed on a five-year cycle integrated with the SB 1 (75th Legislature, 1997) Regional Water Planning five-year cycle. The work plan proposes that the SB 3 five-year periodic review schedule be aligned so that the review is available for consideration by the Regional Planning Groups to consider in each round of Regional Water Planning.

Based on the approved work plan, the commission proposes that the stakeholders submit their review of the environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies, for the Sabine and Neches Rivers and Sabine Lake Bay, by September 15, 2013, and every five years thereafter, and that rule revisions, if any, be adopted by the commission within one year of the submittal of the stakeholder's review.

Subchapter D: Colorado and Lavaca Rivers and Matagorda and Lavaca Bays

The commission proposes Subchapter D to contain all of the environmental flow standards and rules specific to the basin and bay system composed of the Colorado and Lavaca Rivers, their associated tributaries, and Matagorda and Lavaca Bays. The science team delivered its report to the commission on March 1, 2011. The stakeholder committee delivered its recommendations to the commission on August 31, 2011. The commission must now adopt environmental flow standards under TWC, §11.02362(d). This proposed new subchapter would implement the schedule established by the Advisory Group under TWC, §11.02362, and environmental flow standards required of the commission in TWC, §11.1471. The commission specifically invites commenters to provide any relevant information that may differ from its proposed standards, which in the commenter's opinion would assist the commission in deciding on final environmental flow standards. The final environmental flow standards may either be

higher or lower than the environmental flow standards in this proposed rule.

§298.300, Applicability and Purpose

The commission proposes new §298.300 to describe the purpose of Subchapter D and under what circumstances it applies.

§298.305, Definitions

The commission proposes new §298.305. The proposed section has definitions of terms that will apply only to this subchapter. The commission acknowledges that overbank flows and flushing flows for the bays and estuaries are considered to be components of a flow regime for a sound ecological environment. However, these flows result from naturally occurring large rainfall events, which will likely continue to occur. Therefore, the commission is not including overbank flows or flushing flows as a component of the proposed standards. In §298.305(1), (7), (9), (13), and (17) the commission proposes definitions for "annual average inflow," "fall season quantity," "intervening season quantity," "monthly strategy threshold inflow," and "spring season quantity" because the proposed freshwater inflow standards for Matagorda Bay vary by season and year. In §298.305(2) and (11) the commission proposes definitions for "annual strategy frequency," and "long-term annual strategy quantity." These frequencies and quantities are used for the sole purpose of providing additional freshwater inflows to Matagorda and Lavaca Bays through voluntary strategies. In §298.305(3), (4), (14), and (20) the

commission proposes definitions for "average condition," "dry condition," "severe condition," and "wet condition." A range of flow conditions - average, dry, severe, and wet - is proposed to be defined as the stakeholders recommended. In §298.305(5), (15), (19), and (21) the commission proposes definitions for the seasons "fall," "spring," "summer," and "winter" because the proposed environmental flow standards for this basin and bay system vary by season. The definitions are the same as the definitions of the seasons in the recommendations of the science team, which were subsequently used by the stakeholders to develop their recommendations. In §298.305(6), (8), and (16) the commission proposes definitions for "fall inflow quantity," "intervening inflow quantity," and "spring inflow quantity" because the proposed freshwater inflow standards for Lavaca Bay vary by season and year. In §298.305(10) the commission proposes a definition for "inflow regime level" because the proposed freshwater inflow standards for Matagorda and Lavaca Bays include multiple levels of freshwater inflows. In §298.305(12) the commission proposes a definition for "modeled annual frequency" because the frequencies at which specific levels of freshwater inflows occur in the commission's water availability models (WAMs) differ from the frequencies based on gaged flows used for the purpose of providing additional freshwater inflows to Matagorda and Lavaca Bays through voluntary strategies. Finally, in §298.305(18) the commission proposes a definition for "sound ecological environment" for this basin and bay system. This proposed definition is based on the definition recommended by the science team.

§298.310, Findings

The commission proposes new §298.310 regarding findings related to sound ecological environments. The proposed finding regarding the ecological environment is consistent with the science team and stakeholder reports. Information on the commission's reasoning for the proposed schedule of flow quantities and environmental flow standards can be found in this preamble under the analyses for §§298.320, 298.325, and 298.330. This proposed new section would implement TWC, §11.1471.

§298.315, Set-Asides and Standards Priority Date

The commission proposes new §298.315 which establishes the priority date for any set-asides and any modeling of the environmental flow standards in the commission's WAMs as the date the commission received the report from the science team for the basin and bay system, which was March 1, 2011. The commission intends to protect high flow pulse standards from being permitted to smaller applicants for new appropriations because under proposed §298.335(c), the high flow pulse standards would not be included in some water right permits for new appropriations. In addition, the commission needs to ensure that new appropriations, or amendments to add a new appropriation, will not affect downstream flow standards at measurement points that may not be applicable to those new appropriations or amendments. The commission also adds these changes to ensure consistency with the adopted §298.20.

§298.320, Calculation of Hydrologic Conditions

The commission proposes new §298.320 to explain the determination of hydrologic conditions for implementation and application of the standards to water right permits to which the proposed standards apply. The hydrologic conditions are based on the recommendations of the stakeholders, and are calculated from actual gaged flows or reservoir storage. Implementation of hydrologic conditions in the commission's WAMs, used in the availability determination for water rights permitting for the river basins subject to this subchapter may result in different cumulative streamflows, reservoir storage, or reservoir elevation than those described in this section. The commission proposes that, for purposes of water availability determinations, hydrologic conditions used in the commission's WAMs will be calculated using the applicable frequencies for hydrologic conditions recommended by the stakeholders and the WAM simulated flows or reservoir storage.

§298.325, Schedule of Flow Quantities

The commission proposes new §298.325 regarding the schedule of flow quantities. The commission proposes this section to explain the implementation of the environmental flow standards in the following section. The commission does not necessarily intend to use the exact wording of this section as the wording in water right permits issued after the adoption of these rules. However, this section describes how the commission

intends to implement the proposed environmental flow standards in water right permits or amendments for new appropriations.

Subsistence flows are the minimum flows below which the commission will not allow diversions or storage of water. Therefore, the water right holder may not divert or store water if the flow at the applicable measurement point is below the subsistence flow standard. During severe hydrologic conditions, if the flow is above the subsistence flow standard but below the dry base flow standard, the water right holder may divert or store water down to the subsistence flow standard. The commission proposes that the subsistence flow standard can be variable depending on the season, and that only the subsistence flow for a particular season limits diversions by a water right subject to the standards, in that season.

During dry, average, or wet hydrologic conditions, a water right holder may not divert water when the flow is below the base flow standard for that season. Once the flow at the applicable measurement point is above the base flow standard for the season, the water right holder may store or divert water according to its permit as long as the flow at the measurement point does not fall below the applicable base flow standard for that season and in accordance with the applicable hydrologic condition as set out in §298.320.

The commission proposes that pulse flows be allowed to pass if streamflows are above the base or subsistence flow standard for the season and if the pulse flow trigger level is reached at the measurement point. The commission proposes that, for measurement points on the Colorado River below Lake Travis, once the pulse flow trigger conditions are met, the water right owner may not store or divert water unless the daily average flow is at or above the pulse flow trigger level and the applicable pulse duration has occurred. For all other measurement points, once the pulse flow trigger conditions are met, the water right holder may not store or divert water until either the applicable pulse volume passes the applicable measurement point or the applicable pulse duration has occurred.

The commission does not propose that the water right holder be required to produce a pulse flow because pulses occur when there are high rainfall events. The commission does propose that during these high rainfall events, the applicable high flow pulse be allowed to pass downstream. A water right holder on the Colorado River below Lake Travis can divert water in excess of the applicable pulse requirement as long as those diversions do not prevent the occurrence of the pulse flow trigger level of the applicable pulse and as long as the duration requirement is met for the applicable pulse. The commission proposes that a water right holder on the Colorado River above Lake Travis, on tributaries of the Colorado River, in the Lavaca River Basin, or in the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins can divert water in excess of the applicable

pulse flow trigger requirement as long as those diversions do not prevent the occurrence of the pulse flow trigger level of the applicable pulse and as long as the duration or volume requirement is met for the applicable pulse.

If, in a particular season, only one or none of the small seasonal high flow pulses identified in the commission's proposed rule is generated, there would be no need to "catch up" or allow more than the applicable number of high flow pulses to pass in the following season. There would also be no need to "catch up" or allow more than the applicable number of large seasonal or annual high flow pulses to pass. For the Colorado River below Lake Travis, there would also be no need to allow more than the applicable number of larger high flow pulses to pass. The commission agrees with the stakeholders that pulse flows not be tied to a hydrologic condition. In addition, the commission proposes that if the pulse requirements for a large high flow pulse event are satisfied and therefore this high flow pulse is allowed to pass, the requirements for smaller high flow pulse events during that season would be considered to be satisfied at the applicable measurement point.

The commission proposes that if a water right owner stored water at a previous time and complied with the applicable environmental flow requirements at that time, the water right owner would not need to comply with any environmental flow requirements in effect when subsequent use of that stored water occurs. The commission specifically

requests comments on alternative ways to implement the environmental flow standards of §298.330.

§298.330, Environmental Flow Standards

The commission proposes new §298.330 to provide the environmental flow standards of TWC, §11.1471, for the basin and bay system composed of the Colorado and Lavaca Rivers, associated tributaries, and Matagorda and Lavaca Bays. The commission based its decision on consideration of the recommendations from the stakeholders, sound science and other public interests and relevant factors.

The proposed bay and estuary standards for Matagorda and Lavaca Bays generally track the recommendations of the stakeholders. The stakeholders recognized the role of environmental flow standards both in water rights permitting and in establishing targets for purposes of providing additional freshwater inflows through voluntary strategies. Based on this the stakeholders proposed a dual set of recommendations for freshwater inflows. The stakeholders proposed that, for purposes of water availability determinations, specific values based on the WAM in effect at the time they developed their recommendations be included in the proposed rule. The stakeholders recognized that the WAMs can change as new permits and amendments are added and for other reasons and, therefore, the commission does not propose to include specific frequencies for use in water availability determinations in the proposed rule. Instead, the

commission proposes that new permits or amendments to increase the amount of water stored, taken, or diverted shall not decrease the long-term annual strategy quantity, as adjusted consistent with the stakeholders' recommendation, or the modeled annual frequency below the baseline values in the WAM in effect at the time the first application for a water right permit or amendment subject to this subchapter is considered. The commission further proposes that if strategies are implemented through a water right permit to provide additional freshwater inflows to Matagorda or Lavaca Bays, any subsequent new permits or amendments for new appropriations of water not be allowed to reduce the long-term annual quantity or the long-term annual frequency below the modeled levels that would occur with the permitted strategy in place. The stakeholders recommended that a flushing flow event be allowed to pass for Lavaca Bay. A flow event of the magnitude proposed by the stakeholders is the result of high rainfall events, which should continue to occur. In addition, events of this magnitude can result in out-of-bank flood events. Therefore, the commission did not include the flushing flow event in the proposed standards.

The measurement points and the proposed base flow and subsistence flow standards are those recommended by the stakeholders. The proposed high flow pulse standards are generally based on recommendations of the stakeholders. Although the stakeholders did not recommend overbank flows, the stakeholders recommended pulse trigger levels based on flood stage levels. These pulse trigger levels were intended to represent

bankfull events. However, in many locations, flows at the flood stage could inundate low-lying areas and could therefore represent an event larger than the bankfull event. The commission reduced the trigger levels for some high flow pulses to the action stage level to ensure that application of the standards would not cause flooding. The action stage level is defined by the National Weather Service as the stage which, when reached by a rising stream, represents the level where the National Weather Service or a partner/user needs to take some type of mitigation action in preparation for possible significant hydrologic activity. In addition, at some locations, the stakeholders recommended pulse flows with return periods in excess of one year. With the exception of the lower Colorado River below Lake Travis, there was little site-specific information supporting these specific higher pulse flow levels and frequencies. The executive director also reviewed the impacts of greater than annual events on the remaining unappropriated water in these basins as discussed below. Based on these factors, and with the exception of measurement points on the lower Colorado River below Lake Travis, the commission did not include pulses with return periods longer than one year in the proposed rule. For measurement points on the Colorado River below Lake Travis, the commission proposes pulse flows with a return period longer than one year because those specific pulse flow levels were based on a site-specific study.

The stakeholders performed an analysis of the impacts of the proposed standards on future water supply needs, reviewed unappropriated water at various locations

throughout the basin and bay system, and considered the results of these analyses in their recommendations. The executive director reviewed the information provided by the stakeholders. The executive director also performed his own analysis to address the issue of balancing human and other competing needs for water in the basin and bay system by examining the impact of the proposed standards on unappropriated flow in the river basins affected by the proposed rule. The executive director's analysis is not intended as a finding that water is available for specific projects. When applications for projects are evaluated, water availability is based on specific facts in those applications.

The executive director analyzed the impacts of the proposed standards on the remaining unappropriated water at representative measurement points in the Colorado and Lavaca River Basins and associated coastal basins. The executive director based his analysis on results from the WAMs used for his water availability determinations for new permits or amendments that request a new appropriation of water. The executive director calculated both the amount of unappropriated water at selected measurement points and the impact of the proposed standards on unappropriated water. The remaining unappropriated water in these basins, before application of the proposed standards, varied from less than 1% of the time to approximately 18% of the time at measurement points in the Colorado River basin and from 40% of the time to 60% of the time in the Lavaca River Basin and associated coastal basin streams. Unappropriated water in these basins generally occurs during times of higher flow; therefore, increasing pulse volumes

and frequencies during wetter periods reduces the remaining unappropriated flow. The executive director evaluated the freshwater inflow standards recommended by the stakeholders and found that application of the standards resulted in some water available for appropriation during higher flow events. Copies of the WAMs used in this analysis are available at: *http://www.tceq.state.tx.us/goto/eflows/rulemaking*.
The executive director performed water quality analyses to evaluate relationships between streamflow and the water quality parameters identified by the science team and to look for trends and criteria excursions. These analyses did not identify any areas of concern that need to be addressed through this rulemaking process. The executive director also considered whether reduction of the proposed standards would result in a significant increase in unappropriated water in these basins and found that it did not. Based on the results of the analysis of unappropriated flow and the water quality analysis, the executive director determined that there would be no significant impact from implementation of the proposed standards.

The commission is not proposing to set aside any unappropriated water to protect the proposed environmental flow standards. Any unappropriated water that is available in these river basins is available only during relatively wet conditions. The commission's opinion is that the environmental flow standards may be adequately protected by special conditions in water right permits or amendments for new appropriations of water in these basins. Special conditions are a more effective method to maximize the use of

water by allowing water to be used for dual purposes. Special conditions to protect environmental flows may allow water permitted to downstream senior water rights, as well as return flows and permitted but unused water, to satisfy the special conditions. This proposed new section would implement TWC, §11.1471.

§298.335, Water Right Permit Conditions

The commission proposes new §298.335 relating to water right permit conditions. The proposed provision would require the commission to place special conditions in water right permits for new appropriations and amendments that would add additional appropriations to existing permits. The special conditions would be to protect the environmental flow standards established by the subchapter. Consistent with the recommendations of the stakeholders, the commission proposes that, with the exception of measurement points on the Colorado River below Lake Travis where the water right permit applicant proposes to store more than 2,500 acre-feet of water or divert water at a rate of more than 500 cubic feet per second, water right permits to divert or store water would contain special conditions adequate to protect the environmental flow standards. Water right permit applications on the Colorado River below Lake Travis, where the water right permit applicant proposes to store less than 2,500 acre-feet of water or to divert at a rate less than 500 cubic feet per second would not contain the special conditions relative to high flow pulses. This proposed new section would implement TWC, §11.134(b)(3)(D) and §11.1471.

§298.340, Schedule for Revision of Standards

The commission proposes new §298.340 to provide the schedule for re-examination of the environmental flow standards. The commission proposes to take up a possible rulemaking to change the standards ten years from the effective date of the rules, unless the stakeholder committee submits a work plan approved by the advisory group that calls for a more frequent review. The commission notes that it is prohibited from providing that the rulemaking process occurs more frequently than once every ten years unless the stakeholders' work plan approved by the Advisory Group under TWC, §11.02362(p), calls for a more frequent schedule. The commission notes that, as of the time of proposal of these rules, it has not received an approved work plan from the stakeholder committee. The commission will consider changing this proposal on adoption of the rule if it has received an approved work plan by the date this rule is considered for adoption at a commission agenda. Should the commission receive an approved work plan after final adoption of this rule package, the commission is free to consider an amendment to this section and change the schedule more often than once every ten years. The proposed new section would implement TWC, §11.1471(f).

Subchapter E: Guadalupe, San Antonio, Mission, and Aransas Rivers, and Mission, Copano, Aransas, and San Antonio Bays

The commission proposes Subchapter E to contain all of the environmental flow

standards and rules specific to the basin and bay system composed of the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays. The science team delivered its report to the commission on March 1, 2011. The stakeholder committee delivered its recommendations to the commission on September 1, 2011. The commission must now adopt environmental flow standards under TWC, §11.02362(d). This proposed new subchapter would implement the schedule established by the Advisory Group under TWC, §11.02362, and environmental flow standards required of the commission in TWC, §11.1471. The commission specifically invites commenters to provide any relevant information that may differ from its proposed standards, which in the commenter's opinion would assist the commission in deciding on final environmental flow standards. The final environmental flow standards may either be higher or lower than the environmental flow standards in this proposed rule.

§298.350, Applicability and Purpose

The commission proposes new §298.350 to describe the purpose of Subchapter E and under what circumstances it applies.

§298.355, Definitions

The commission proposes new §298.355. The proposed section has definitions of terms that will apply only to this subchapter. The commission acknowledges that overbank

flows are considered to be components of a flow regime for a sound ecological environment. However, these flows result from naturally occurring large rainfall events, which will likely continue to occur. Therefore, the commission is not including overbank flows as a component of the proposed standards. In §298.355(1), (2), and (10) the commission proposes definitions for "average condition," "dry condition," and "wet condition." A range of flow conditions - average, dry, and wet - is proposed to be defined as the stakeholders recommended. In §298.355(3), (6), (9), and (11) the commission proposes definitions for the seasons, "fall," "spring," "summer," and "winter" because the proposed environmental flow standards for this basin and bay system vary by season. The definitions are the same as the definitions of the seasons in the recommendations of the science team, which were subsequently used by the stakeholders to develop their recommendations. In §298.355(4) the commission proposes a definition for "inflow regime level" because the proposed freshwater inflow standards for San Antonio Bay and the Mission-Aransas Estuary include multiple levels of freshwater inflows that occur with specific frequencies. In §298.355(5) the commission proposes a definition for "modeled permitting frequency" for use in water rights permitting for applications which increase the amount of water authorized to be stored, taken, or diverted as described in §298.10. In §298.355(7) the commission proposes a definition for "sound ecological environment" for this basin and bay system. This proposed definition is based on the definition recommended by the science team. Finally, in §298.355(8) the commission proposes a definition for "strategy target

frequency" to be used solely for the purpose of pursuing voluntary strategies to provide additional freshwater inflow to the bays and estuaries covered in this subchapter.

§298.360, Findings

The commission proposes new §298.360 regarding findings related to sound ecological environments. The proposed finding regarding the ecological environment is consistent with the science team and stakeholder reports. Information on the commission's reasoning for the proposed schedule of flow quantities and environmental flow standards can be found in this preamble under the analyses for §§298.370, 298.375, and 298.380. This proposed new section would implement TWC, §11.1471.

§298.365, Set-Asides and Standards Priority Date

The commission proposes new §298.365 which establishes the priority date for any set-asides and any modeling of the environmental flow standards in the commission's WAMs as the date the commission received the report from the science team for the basin and bay system, which was March 1, 2011. The commission intends to protect high flow pulse standards by not permitting these flows to smaller applicants for new appropriations because under proposed §298.385(b), the high flow pulse standards would not be included in some water right permits for new appropriations. In addition, the commission needs to ensure that new appropriations, or amendments to add a new appropriation, will not affect downstream flow standards at measurement points that

may not be applicable to those new appropriations or amendments. The commission also adds these changes to ensure consistency with the adopted §298.20.

§298.370, Calculation of Hydrologic Conditions

The commission proposes new §298.370 to explain the determination of hydrologic conditions for implementation and application of the standards to water right permits to which the proposed standards apply. The method for determining hydrologic conditions, for water right permits to which hydrologic conditions are applicable, for use as special conditions in those water right permits, is based on the recommendations of the stakeholders. Implementation of hydrologic conditions in the commission's WAMs, used in the availability determination for water rights permitting, for the river and coastal basins for which hydrologic conditions are applicable may result in different cumulative streamflows than those derived for the purposes of developing special conditions for a water right permit to which those hydrologic conditions are applicable. The commission proposes that, for purposes of water availability determinations, hydrologic conditions used in the commission's WAMs will be calculated based on the period of record for the applicable WAM and using the applicable frequencies for hydrologic conditions recommended by the stakeholders and applied to the WAM simulated flows.

§298.375, Schedule of Flow Quantities

The commission proposes new §298.375 regarding the schedule of flow quantities. The commission proposes this section to explain the implementation of the environmental flow standards in the following section. The commission does not necessarily intend to use the exact wording of this section as the wording in water right permits issued after the adoption of these rules. However, this section describes how the commission intends to implement the proposed environmental flow standards in water right permits or amendments applications for new appropriations.

Subsistence flows are the minimum flows below which the commission will not allow diversions or storage of water. Therefore, the water right holder may not divert or store water if the flow at the applicable measurement point is below the subsistence flow standard. For measurement points in the Guadalupe River Basin, the commission proposes that if the flow at the applicable measurement point is above the subsistence flow standard but below the applicable base flow standard, the water right holder must allow the applicable subsistence flow, plus 50% of the difference between measured streamflow and the applicable subsistence flow, to pass its measurement point, and any remaining flow may be diverted or stored. For measurement points in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, during dry hydrologic conditions, if the flow at the applicable measurement point is above the subsistence flow standard but below the applicable dry base flow standard, the water right holder must allow the applicable subsistence flow, plus 50% of the difference between measured

streamflow and the applicable subsistence flow, to pass its measurement points, and any remaining flow may be diverted or stored. The commission proposes that the subsistence flow standard can be variable depending on the season, and that only the subsistence flow for a particular season limits diversions by a water right subject to the standards, in that season.

For measurement points in the Guadalupe River Basin, once the flow at the applicable measurement point is above the base flow standard for the season, the water right holder may store or divert water according to its permit as long as the flow at the measurement point does not fall below the applicable base flow standard for that season. For measurement points in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, during average or wet hydrologic conditions, a water right holder may not store or divert water when the flow at the applicable measurement point is below the base flow standard for that season. Once the flow at the applicable measurement point is above the base flow standard for the season, the water right holder may store or divert water according to its permit as long as the flow at the applicable measurement point does not fall below the applicable base flow standard for that season and in accordance with the applicable hydrologic condition as set out in §298.370.

The commission proposes that pulse flows be allowed to pass if streamflows are above

the base or subsistence flow standard for the season, subject to the pulse flow exemption as described in §298.385(b) and if the pulse flow trigger level is reached at the measurement point. The commission also proposes that, for measurement points described in §298.380(d)(12) - (15), for large pulses, once the pulse flow trigger conditions are met, the water right owner may not store or divert water until the daily average flow is at or above the pulse flow trigger level and the applicable pulse duration has occurred. For all other measurement points and for small seasonal pulses at measurement points described in §298.380(d)(12) - (15), once the pulse flow trigger conditions are met, the water right holder may not store or divert water until either the applicable pulse volume passes the applicable measurement point or the applicable pulse duration has occurred.

The commission does not propose that the water right holder be required to produce a pulse flow because pulses occur when there are high rainfall events. The commission does propose that during these high rainfall events, the applicable high flow pulse be allowed to pass downstream. The commission proposes that a water right holder on the San Antonio River or Cibolo Creek can divert water in excess of the applicable large pulse flow trigger requirement as long as those diversions do not prevent the occurrence of the pulse flow trigger level of the applicable large pulse and so long as the duration requirement is met for the applicable large pulse. The commission proposes that a water right holder on the San Antonio River or Cibolo Creek can divert water in excess of

the applicable small pulse flow trigger requirement as long as those diversions do not prevent the occurrence of the small pulse flow trigger level and as long as the duration or volume requirement is met for the applicable small pulse. The commission also proposes that all other water right holders can divert water in excess of the applicable pulse requirement so long as those diversions do not prevent the occurrence of the pulse flow trigger level of the applicable pulse and as long as the duration or volume requirement is met for the applicable pulse.

If, in a particular season, only one of the small seasonal high flow pulses identified in the commission's proposed rule is generated, there would be no need to "catch up" or allow more than the applicable number of high flow pulses to pass in the following season. There would also be no need to "catch up" or allow more than the applicable number of large seasonal high flow pulses to pass. The commission agrees with the stakeholders that pulse flows not be tied to a hydrologic condition. In addition, the commission proposes that if the pulse requirements for a large seasonal high flow pulse event are satisfied and therefore this high flow pulse is allowed to pass, the requirements for smaller seasonal high flow pulse events during that season would be considered to be satisfied at the applicable measurement point.

The commission proposes that if a water right owner stored water at a previous time and complied with the applicable environmental flow requirements at that time, the water

right owner would not need to comply with any environmental flow requirements in effect when subsequent use of that stored water occurs. The commission specifically requests comments on alternative ways to implement the environmental flow standards of §298.380.

§298.380, Environmental Flow Standards

The commission proposes new §298.380 to provide the environmental flow standards of TWC, §11.1471, for the basin and bay system composed of the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays. The commission based its decision on consideration of the recommendations of stakeholders, sound science and other public interests and relevant factors.

The proposed bay and estuary standards for San Antonio Bay and the Mission-Aransas Estuary generally track the recommendations of the stakeholders. The commission agrees with the stakeholders that, for months where there is no freshwater inflow standard in the proposed rule, application of the proposed instream flow standards to water right applications subject to this subchapter should provide sufficient flow to the bays and estuaries. The stakeholders recognized the role of environmental flow standards in both water rights permitting and in establishing targets for purposes of providing additional freshwater inflows through voluntary strategies. Based on this, the

stakeholders recommended a dual set of recommendations for freshwater inflows. The stakeholders proposed that, for purposes of water availability determinations, specific frequency values based on the WAM in effect at the time they developed their recommendations be included in the proposed rule. However, the stakeholders recognize that the WAMs change as new permits and amendments are added and for other reasons. Therefore, the commission does not propose to include specific frequencies for use in availability determinations in the proposed rule. The commission proposes that new permits or amendments to increase the amount of water stored, taken, or diverted shall not impair the frequency at which specific inflow regime levels occur by more than 10% from the baseline values in the commission's WAMs in effect at the time the first application for a water right permit or amendment subject to this subchapter is considered.

The stakeholders also proposed that, for new appropriations greater than 200 acre-feet per year, each applicant should dedicate the lesser of 10% of the project yield or 10% of the authorized annual diversion to the environment to provide additional freshwater inflows to the bays and estuaries. The stakeholders further recommended that the commission, through rulemaking, form a stakeholder advisory group to advise the commission on the 10% dedication. HB 3/SB 3 contemplates that environmental flow standards will be protective of the environment. Further, requiring this dedication would encourage applicants for new appropriations to request more water than they

need. The commission's proposed standards are protective of the environment; therefore, the commission did not include a requirement for a 10% dedication, in the proposed standards and the commission does not propose to establish a stakeholder advisory group in this rulemaking. The commission further proposes that if strategies are implemented through a water right permit to provide additional freshwater inflows to San Antonio Bay or the Mission-Aransas Estuary, any subsequent new permits or amendments for new appropriations of water not be allowed to reduce the frequency at which inflow regime levels occur below the levels that would occur in the commission's WAM with the permitted strategy or strategies in place.

The measurement points and the proposed base flow and subsistence flow standards for the San Antonio River Basin and the San Antonio-Nueces Coastal Basin are those recommended by the stakeholders; however, some flow values were rounded. The proposed high flow pulse standards are generally based on recommendations of the stakeholders. At some locations, the stakeholders recommended pulse flows with durations in excess of one month. With the exception of the San Antonio River and Cibolo Creek, there was little site-specific information supporting specific high flow pulses, including pulses with long durations. Therefore, the commission did not include pulse flows with durations longer than 30 days in the proposed rule. The measurement points and the subsistence flow standards for the Guadalupe River Basin are those recommended by the stakeholders. The base flow standards and pulse flow values were

adjusted based on the balancing analysis discussed further.

The stakeholders performed an analysis of the impacts of the proposed standards on future water supply needs and considered the results of these analyses in their recommendations. The executive director reviewed the information provided by the stakeholders. The executive director also performed his own analysis to address the issue of balancing human and other competing needs for water in the basin and bay system. The executive director's analysis is not intended as a finding that water is available for specific projects. When applications for projects are evaluated, water availability is based on specific facts in those applications.

The executive director's selected scenario for the balancing analysis is based on a hypothetical diversion of a large amount of water from the Guadalupe River Basin. For this evaluation, the executive director used the commission's WAM for the Guadalupe river basin and modified it by adding the selected scenario. The executive director performed analyses to estimate water availability under three conditions: 1) no environmental flow requirements; 2) application of the commission's current default methodology; 3) application of the stakeholders' recommendation; and, 4) application of the proposed environmental flow standard. Applying either no instream flow requirement or the default methodology produces annual availabilities of 59% and 30%, respectively. Application of the stakeholders' recommendation and of the proposed

standards produces annual availabilities of less than 5% and 29%, respectively. The executive director applied the proposed standards for San Antonio Bay and found that application of the standards, as proposed in the rule, did not impact water availability for the scenario. Copies of the WAMs used in this analysis are available at: *http://www.tceq.texas.gov/goto/eflows/rulemaking*.

The executive director performed water quality analyses to evaluate relationships between streamflow and the water quality parameters identified by the science team and to look for trends and criteria excursions. These analyses did not identify any areas of concern that need to be addressed through this rulemaking process. The executive director also considered whether reduction of the proposed standards would result in a significant increase in the amount of water available for the scenario and found that it did not. Based on the results of these analyses, the executive director determined that there would be no significant impact from implementation of the proposed standards.

The commission is not proposing to set aside any unappropriated water to protect the proposed environmental flow standards. Any unappropriated water that is available in these river basins is available only during relatively wet conditions. The commission's opinion is that the environmental flow standards may be adequately protected by special conditions in water right permits or amendments for new appropriations of water in these basins. Special conditions are a more effective method to maximize the use of

water by allowing water to be used for dual purposes. Special conditions to protect environmental flows may allow water permitted to downstream senior water rights, as well as return flows and permitted but unused water, to satisfy the special conditions. This proposed new section would implement TWC, §11.1471.

§298.385, Water Right Permit Conditions

The commission proposes new §298.385 relating to water right permit conditions. The proposed provision would require the commission to place special conditions in water right permits for new appropriations and amendments that would add additional appropriations to existing permits. The special conditions would be to protect the environmental flow standards established by the subchapter. Consistent with the recommendations of the stakeholders, the commission proposes that, for water right permit applications where the diversion rate is less than 20% of a pulse flow trigger requirement, the water right permit or amendment would not include special conditions relative to that high flow pulse. This proposed new section would implement TWC, §11.134(b)(3)(D) and §11.1471.

§298.390, Schedule for Revision of Standards

The commission proposes new §298.390 to provide the schedule for re-examination of the environmental flow standards. The commission proposes to take up a possible rulemaking to change the standards ten years from the effective date of the rules, unless

the stakeholder committee submits a work plan approved by the advisory group that calls for a more frequent review. The commission notes that it is prohibited from providing that the rulemaking process occurs more frequently than once every ten years unless the stakeholders' work plan approved by the Advisory Group under TWC, §11.02362(p), calls for a more frequent schedule. The commission notes that, as of the time of proposal of these rules, it has not received an approved work plan from the stakeholder committee. The commission will consider changing this proposal on adoption of the rule if it has received an approved work plan by the date this rule is considered for adoption at a commission agenda. Should the commission receive an approved work plan after final adoption of this rule package, the commission is free to consider an amendment to this section and change the schedule more often than once every ten years. The proposed new section would implement TWC, §11.1471(f).

Fiscal Note: Costs to State and Local Government

Jeffrey Horvath, Strategic Planning and Assessment Section Analyst, has determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

The proposed rulemaking implements SB 3 and HB 3 from the 80th Legislative Session by adopting appropriate environmental flow standards for the Colorado and Lavaca

Rivers and Matagorda and Lavaca Bays, and the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays. Any governmental entity that applies for a new appropriation of water could potentially be affected by the environmental flow standards, including river authorities, cities, and water districts. The proposed rulemaking also implements TWC, §11.02362(p) and §11.1471(f), for the Sabine and Neches Rivers and Sabine Lake Bay by amending §298.290 to change the schedule for revision of the existing standards.

The rulemaking does not propose any new fees nor does it change existing ones. The proposed rulemaking does propose specific standards that will be applied by TCEQ staff during the technical review of applications for new appropriations of state water. These proposed standards are the result of stakeholder recommendations and will replace the methodology currently used to determine streamflow requirements. Once the environmental flow standards are adopted, the standards will be a part of the commission's water rights permitting process.

The proposed standards may reduce the number of new appropriations and permit amendments that would increase the amount of water to be taken, stored, or diverted, and therefore could result in an applicant having to secure an additional source of water. However, under existing practice streamflow restrictions are currently applied to new appropriations of water. The environmental flow standards as proposed in the rule are

expected to function similarly to current streamflow restrictions. Any affect of the proposed rules on an application for new appropriations would depend upon the type of application, the location of the application in the river basin, bay and estuary inflow requirements, and the overall water availability in that basin. In the Colorado and Lavaca River Basins, staff's preliminary analysis indicates that the impacts may be greater for applications for direct diversions than for applications that include storage. In the Guadalupe, San Antonio, Mission, and Aransas River Basins, staff's preliminary analysis indicates similar types of impacts.

Because the proposed standards are expected to function similarly to current streamflow restrictions for applications, the proposed standards are not expected to have significant fiscal implications for units of state or local government including river authorities, cities, or water districts. The amendment to §298.290 does not have fiscal implications for units of state or local government including river authorities, cities, or water districts because it only revises an existing schedule.

Public Benefits and Costs

Mr. Horvath has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be to provide certainty for the state's water management and development as well as adequate protection of the state's streams, rivers, bays, and estuaries.

The proposed rules are not anticipated to have significant fiscal implications for businesses or individuals. The proposed rules will provide appropriate environmental flow standards for the river and bay systems of the Colorado and Lavaca Rivers, and the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays. However, any business or individual who applies for a new appropriation of water could potentially be affected by the proposed environmental flow standards. The affect of the proposed rules on an applicant would depend on the type of application, the location in the river basin, bay and estuary inflow requirements, and the overall water availability in that basin.

In the Colorado and Lavaca River Basins and the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, staff's preliminary analysis indicates that the impacts may be greater for applications for direct diversions than for applications that include storage. In the Guadalupe, San Antonio, Mission, and Aransas River Basins and Mission, Copano, Aransas, and San Antonio Bays, staff's preliminary analysis indicates similar types of impacts. In addition, bay and estuary inflow requirements would be considered in availability determinations for applications in the Colorado and Lavaca River Basins and in the Guadalupe, San Antonio, Mission, and Aransas River Basin and the amount of water granted in an application could be lower.

Because the proposed rules may affect new appropriations and amendments that increase the amount of water to be taken, stored, or diverted, an applicant may have to secure an additional source of water. If a business is a water supplier and applies for a new appropriation of water and the availability for the appropriation is reduced, then individual water customers may see an increase in costs for water. However, streamflow restrictions are currently applied to new appropriations of water and the proposed standards are expected to function similarly to current streamflow restrictions for applications. Therefore, the proposed standards are not expected to have significant fiscal implications for businesses and individuals. Further, the amendment to §298.290 does not have fiscal implications for businesses or individuals because it only revises an existing schedule.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the administration or implementation of the proposed rules. The proposed rules will provide appropriate environmental flow standards for the river and bay systems of the Colorado, Lavaca, Guadalupe, San Antonio, Mission, and Aransas River Basins and Mission, Copano, Aransas, and San Antonio Bays. The proposed rules may affect new appropriations and amendments that increase the amount of water to be taken, stored, or diverted, which could result in an applicant having to secure an additional source of water. However, because streamflow restrictions are currently applied to new

appropriations of water under existing practice and the proposed environmental flow standards would function similarly to current streamflow restrictions, no adverse fiscal implications are anticipated for small or micro-businesses. Finally, the amendment to §298.290 does not have fiscal implications for small or micro-businesses because it only revises an existing schedule.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are not expected to adversely affect small or micro-businesses for the first five years that they are in effect. In addition, the proposed rules are required in order to implement state law and are necessary to protect public health, safety, and the environment.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission evaluated these proposed rules and performed an analysis of whether

these proposed rules require a regulatory impact analysis under Texas Government Code, §2001.0225. These rules are not a "major environmental rule" under Texas Government Code, §2001.0225 because although the specific intent of the rulemaking is to protect the environment, these rules do not potentially adversely affect in a material way the economy, or a sector of the economy. Also, the purpose of these rules is not to exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of a delegation agreement or contract between the state and an agency of the federal government to implement a state and federal program, or to adopt rules solely under the general powers of the agency instead of specific state law. This rulemaking is specifically required by TWC, §11.1471. The purpose of these rules is to establish environmental flow standards and set-asides the Colorado and Lavaca Rivers, their associated tributaries, and Matagorda and Lavaca Bays; and the Guadalupe, San Antonio, Mission and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays as required by TWC, §11.1471(a). These rules also implement TWC, §11.02362(p) and §11.1471(f), to revise the schedule for review of the existing standards for the Sabine and Neches Rivers and Sabine Lake Bay. Therefore, no regulatory impact analysis is required under Texas Government Code, §2001.0225 for this rulemaking.

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments

section of this preamble.

Takings Impact Assessment

The commission evaluated these proposed rules and performed analysis of whether these proposed rules constitute a takings under Texas Government Code, Chapter 2007. The specific purpose of these rules is to establish environmental flow standards and set-asides for the Colorado and Lavaca Rivers, their associated tributaries, and Matagorda and Lavaca Bays; and the Guadalupe, San Antonio, Mission and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays, as expressly required by TWC, §11.1471(a). These rules also implement TWC, §11.02362(p) and §11.1471(f), to revise the schedule for review of the existing standards for the Sabine and Neches Rivers and Sabine Lake Bay. Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, because under TWC, §11.147(e-1), these rules cannot be retroactively applied to water rights issued after September 1, 2007, the subject proposed regulations do not affect a landowner's rights in private real property. Thus, this rulemaking does not burden (constitutionally); nor restrict or limit the owner's right to existing property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 *et. seq*., and, therefore, must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance with Coastal Coordination Act Implementation Rules, 31 TAC §505.22, and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

CMP goals applicable to the proposed rules include: 1) to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas; and, 2) to ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone. CMP policies applicable to the proposed rules include those contained in 31 TAC §501.33. The proposed rules implement HB 3/SB 3, which established the environmental flows process to provide certainty in water management and development and to provide adequate protection of the state's streams, rivers, bays, and estuaries. Since one of the purposes of the proposed rules is to protect coastal natural resources, the rules are consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards

identified in the applicable CMP goals and policies, because the proposed rules are consistent with these CMP goals and policies, because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas, and because one of the purposes of the proposed rules is to protect coastal natural resources.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on May 8, 2012, at 2:00 p.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Charlotte Horn, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: *http://www5.tceq.texas.gov/rules/ecomments/*. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2011-059-298-OW. The comment period closes May 14, 2012. Copies of the proposed rulemaking can be obtained from the commission's Web site at *http://www.tceq.texas.gov/nav/rules/propose_adopt.html*. For further information, please contact Ron Ellis, Water Rights Permitting and Availability Section, at (512) 239-1282.

SUBCHAPTER C: SABINE AND NECHES RIVERS, AND SABINE LAKE BAY

§298.290

Statutory Authority

The amended section is proposed under Texas Water Code (TWC), §5.102, concerning General Powers; §5.103, concerning Rules; and §5.105 concerning General Policy, which authorize the commission to adopt rules as necessary to carry out its power and duties under the TWC. The amended section is also proposed under TWC, §11.0235, concerning Policy Regarding Waters of the State; §11.02362 (p) and (q) concerning Development of Environmental Flow Regime Recommendations; §11.147, concerning Effects of Permit on Bays and Estuaries and Instream Uses; and §11.1471, concerning Environmental Flow Standards and Set-Asides.

The proposed amended section implements TWC, §§11.0235, 11.0236(p) and (q), 11.147, and 11.1471.

§298.290. Schedule for Revision of Standards.

The <u>adopted</u> environmental flow standards or environmental flow set-asides [adopted herein] for the Sabine and Neches Rivers, their associated tributaries, and Sabine Lake Bay may be revised by the commission through the rulemaking process. <u>The Sabine and Neches basin and bay area stakeholder committee shall submit their</u>

review of the adopted environmental flow standards by September 1, 2013, and every five years thereafter. If the stakeholder committee recommends revisions to the adopted environmental flow standards, and the commission agrees, the rulemaking process shall be undertaken in conjunction with the periodic review. The final revised rules shall be effective within one year of the stakeholder's submittal of their review of the adopted environmental flow standards. [The final revised rules shall be effective no sooner than ten years from the effective date of this rule, unless the Sabine and Neches basin and bay area stakeholder committee submits a work plan approved by the advisory group under Texas Water Code, §11.02362(p), that provides for a periodic review to occur more frequently. In that event, the commission may provide for the rulemaking process to be undertaken in conjunction with the periodic review if the commission determines that schedule to be appropriate.] The rulemaking process shall include participation by a balanced representation of stakeholders having interests in the Sabine and Neches Rivers, their associated tributaries, and Sabine Lake Bay.

SUBCHAPTER D: COLORADO AND LAVACA RIVERS, AND MATAGORDA AND LAVACA BAYS

§§298.300, 298.305, 298.310, 298.315, 298.320, 298.325, 298.330, 298.335, 298.340

Statutory Authority

The new sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers; §5.103, concerning Rules; and §5.105 concerning General Policy, which authorize the commission to adopt rules as necessary to carry out its power and duties under the TWC. The new sections are also proposed under TWC, §11.0235, concerning Policy Regarding Waters of the State; §11.147, concerning Effects of Permit on Bays and Estuaries and Instream Uses; and §11.1471, concerning Environmental Flow Standards and Set-Asides.

The proposed new sections implement TWC, §§11.0235, 11.147, and 11.1471.

§298.300. Applicability and Purpose.

This subchapter contains the environmental flow standards for the Colorado and Lavaca Rivers, and Matagorda and Lavaca Bays. The provisions of this subchapter have control over any provisions of Subchapter A of this chapter (relating to General

Provisions) that are inconsistent with this subchapter relating to environmental flow standards and regulation in the Colorado and Lavaca Rivers, and Matagorda and Lavaca Bays.

§298.305. Definitions.

The following words or phrases have the following meanings in this subchapter unless the context clearly indicates otherwise:

(1) Annual average inflow--the long-term average annual volume of freshwater inflows at the most downstream point in the Colorado River Basin.

(2) Annual strategy frequency--the frequencies at which specific levels of freshwater inflows occur and which are used for the sole purpose of providing additional freshwater inflows to Matagorda and Lavaca Bays through voluntary strategies.

(3) Average condition--for all measurement points, the hydrologic condition that would occur approximately 50% of the time.

(4) Dry condition--for all measurement points except those measurement points on the Colorado River below Lake Travis, the hydrologic condition that would occur approximately 20% of the time. For all measurement points on the Colorado River below Lake Travis, the hydrologic condition that would occur approximately 45% of the time.

(5) Fall--for the measurement points on the Colorado River and its tributaries above Lake Travis, the period of time September through October, inclusive, and for all other measurement points, the period of time September through November, inclusive.

(6) Fall inflow quantity--the maximum freshwater inflow quantity, at the most downstream point in the Lavaca River Basin and at the most downstream point on Garcitas Creek in the Lavaca-Guadalupe Coastal Basin, occurring during any period of three consecutive months beginning in the months of August, September, or October.

(7) Fall season quantity--the maximum freshwater inflow quantity, at the most downstream point in the Colorado River Basin, occurring during any three consecutive months during the period from August through December, inclusive.

(8) Intervening inflow quantity--the quantity of freshwater inflows, at the most downstream point in the Lavaca River Basin and at the most downstream point on Garcitas Creek in the Lavaca-Guadalupe Coastal Basin, occurring during the remaining six months of the calendar year, that were not included in the Fall Inflow or Spring Inflow for that calendar year.

(9) Intervening season quantity--the quantity of freshwater inflows, at the most downstream point in the Colorado River Basin, occurring during the six months of the calendar year that are not counted towards the fall season quantity or the spring season quantity for that year.

(10) Inflow regime level--the annual freshwater inflow pattern, at the most downstream point in the Colorado River Basin for Matagorda Bay, or at the most downstream point in the Lavaca River Basin and the most downstream point on Garcitas Creek in the Lavaca-Guadalupe Coastal Basin for Lavaca Bay, that includes a spring season quantity, a fall season quantity, and an intervening season quantity.

(11) Long-Term annual strategy quantity--the annual average volume of freshwater inflows, which is used for the sole purpose of providing additional freshwater inflows to Matagorda Bay through voluntary strategies.

(12) Modeled annual frequency--the frequency at which specific levels of freshwater inflows occur in the commission's water availability models for the Colorado and Lavaca river basins and the Colordado-Lavaca and Lavaca-Guadalupe coastal basins at the time the first water right application subject to this subchapter is processed.

(13) Monthly strategy threshold inflow--the total volume of freshwater inflows, at the most downstream point in the Colorado River Basin, in any calendar month, which is used for the sole purpose of providing additional freshwater inflows to Matagorda Bay through voluntary strategies.

(14) Severe condition--for all measurement points, the hydrologic condition that would occur approximately 5% of the time.

(15) Spring--the period of time March through June, inclusive.

(16) Spring inflow quantity--the maximum freshwater inflow quantity, at the most downstream point in the Lavaca River Basin and at the most downstream point on Garcitas Creek in the Lavaca-Guadalupe Coastal Basin, occurring during any period of three consecutive months beginning in the months of February, March, April, or May.

(17) Spring season quantity--the maximum freshwater inflow quantity, at the most downstream point in the Colorado River Basin, occurring during any three consecutive months during the period from January through July, inclusive.

(18) Sound ecological environment--characterized by flow regimes that support existing biological communities in rivers, riparian, bay, and estuary habitats.

(19) Summer--the period of time July through August, inclusive.

(20) Wet condition--for all measurement points except those measurement points on the Colorado River below Lake Travis, the hydrologic condition that would occur approximately 25% of the time.

(21) Winter--for the measurement points on the Colorado River above Lake Travis, the period of time November through February, inclusive, and for all other measurement points, the period of time December through February, inclusive.

§298.310. Findings.

(a) The Colorado and Lavaca Rivers and their associated tributaries and Matagorda and Lavaca Bays and their associated estuaries are healthy and sound

ecological environments.

(b) For the Colorado and Lavaca Rivers, and their associated tributaries, the commission finds that these sound ecological environments can best be maintained by a set of flow standards that implement a schedule of flow quantities that contain subsistence flow, base flow, and high flow pulses at defined measurement points. Minimum flow levels for these components will vary by season and by year since the amount of precipitation and, therefore, whether a system is in subsistence or base flow conditions, will vary from year to year and within a year from season to season, and the number of pulses protected will also vary with the amount of precipitation.

(c) For Matagorda and Lavaca Bays, the commission finds that the sound ecological environment of Matagorda and Lavaca Bays can best be maintained by a set of freshwater inflow standards that include freshwater inflow quantities that vary by season.

§298.315. Set-Asides and Standards Priority Date.

The priority date for the environmental flow standards and set-asides established by this subchapter is March 1, 2011. The priority date for the environmental flow standards will be used in the water availability determination for a new appropriation or

for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted, and has no other purpose.

§298.320. Calculation of Hydrologic Conditions.

(a) For new water right authorizations which increase the amount of water authorized to be stored, taken, or diverted as described in §298.10 of this title (relating to Applicability), the determination of the hydrologic condition for a particular season shall be determined once per season. The conditions present on the last day of the month of the preceding season will determine the hydrologic condition for the following season. For each measurement point specified in this section, either cumulative streamflow for the previous 12 months, combined storage in major reservoirs, or reservoir elevation will determine the hydrologic condition, as described in §298.320(b) - (d) of this section.

(b) For measurement points located on the Colorado River above Lake Travis and tributaries of the Colorado River, and in the Colorado-Lavaca and the Lavaca-Guadalupe Coastal Basins, cumulative streamflow for the preceding 12 months and the corresponding hydrologic conditions are:

Figure: 30 TAC §298.320(b)

Cumulative Streamflow for Calculating Hydrologic Conditions for Measurement Points on the Colorado River above Lake Travis and tributaries of the Colorado River, and in the Colorado-Lavaca and the Lavaca-Guadalupe Coastal Basins

		Cumulative Streamflow (acre-feet)			
BASIN	MEASUREMENT POINT	SEVERE	DRY	AVERAGE	WET
COLORADO	Colorado River above Silver	less than 4,090	4,090 - 16,600	16,600 - 57,490	greater than 57,490
COLORADO	Colorado River near Ballinger	less than 3,120	3,120 - 11,150	11,150 - 67,700	greater than 67,700
COLORADO	Elm Creek at Ballinger	less than 820	820 - 4,990	4,990 - 46,560	greater than 46,560
COLORADO	South Concho River at Christoval	less than 5,270	5,270 - 7,380	7,380 - 21,660	greater than 21,660
COLORADO	Concho River at Paint Rock	less than 7,110	7,110 - 17,000	17,000 - 49,900	greater than 49,900
COLORADO	Pecan Bayou near Mullin	less than 11,860	11,860 - 26,700	26,700 - 187,740	greater than 187,740
COLORADO	San Saba River at San Saba	less than 40,550	40,550 - 61,100	61,100 - 149,890	greater than 149,890
COLORADO	Colorado River near San Saba	less than 80,510	80,510 - 205,110	205,110 - 568,970	greater than 568,970

COLORADO	Llano River at Llano	less than 90,810	90,810 - 145,660	145,660 - 364,540	greater than 364,540
COLORADO	Pedernales River near Johnson City	less than 27,710	27,710 - 70,210	70,210 - 222,700	greater than 222,700
COLORADO	Onion Creek near Driftwood	less than 810	810 - 10,460	10,460 - 59,610	greater than 59,610
COLORADO-LAVACA	Tres Palacios Creek near Midfield	less than 31,940	31,940 - 62,920	62,920 - 158,630	greater than 158,630
LAVACA-GUADALUPE	Garcitas Creek near Inez	less than 1,880	1,880 - 10,790	10,790 - 62,460	greater than 62,460

(c) For measurement points located on the Colorado River below Lake Travis, the combined reservoir storage in Lakes Travis and Buchanan and the corresponding hydrologic conditions are:

Figure: 30 TAC §298.320(c)

Combined Reservoir Storage for Calculating Hydrologic Conditions for Measurement Points on the Colorado River below Lake Travis

		Combined Reservoir Storage in Lakes Travis and Buchanan (acre-feet)		
BASIN	MEASUREMENT POINTS	SEVERE	DRY	AVERAGE

COLORADO	Colorado River at Bastrop, Colorado River at Columbus, Colorado River at Wharton	less than 1,103,700	1,103,700 - 1,737,460	greater than 1,737,460

(d) For measurement points located in the Lavaca River Basin, the reservoir elevation of Lake Texana and the corresponding hydrologic conditions are:

Figure: 30 TAC §298.320(d)

Reservoir Elevation for Calculating Hydrologic Conditions for Measurement Points in the Lavaca River Basin

		Reservoir Elevation of Lake Texana (msl)			
BASIN	MEASUREMENT POINTS	SEVERE	DRY	AVERAGE	WET
LAVACA	West Mustang Creek near Ganado, East Mustang Creek near Louise, Navidad River near Edna, Sandy Creek near Ganado, Lavaca River near Edna	less than 39.95	39.95 - 43.00	43.00 - 44.00	greater than 44.00

msl = mean sea level

(e) For purposes of water availability determinations, for measurement points on the Colorado River above Lake Travis and tributaries of the Colorado River, and in the Lavaca River Basin and the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, hydrologic conditions used in the commission's water availability models shall be

calculated such that severe conditions occur approximately 5% of the time, dry conditions occur approximately 20% of the time, average conditions occur approximately 50% of the time, and wet conditions occur approximately 25% of the time.

(f) For purposes of water availability determinations, for measurement points on the Colorado River below Lake Travis, hydrologic conditions used in the commission's water availability models shall be calculated such that severe conditions occur approximately 5% of the time, dry conditions occur approximately 45% of the time, and average conditions occur approximately 50% of the time.

§298.325. Schedule of Flow Quantities.

(a) Schedule of flow quantities. The environmental flow standards adopted by this subchapter constitute a schedule of flow quantities made up of subsistence flow, base flow, and high flow pulses. Environmental flow standards are established at 21 separate measurement locations in §298.330 of this title (relating to Environmental Flow Standards).

(b) Subsistence flow. The applicable subsistence flow standard varies depending on the seasons as described in §298.305 of this title (relating to Definitions). For a water

right holder to which an environmental flow standard applies, at a measurement point that applies to the water right, the water right holder may not store or divert water under severe hydrologic conditions, unless the flow at the measurement point is above the applicable subsistence flow standard for that point. During severe hydrologic conditions, if the flow at the measurement point is above the subsistence flow standard but below the applicable dry condition base flow standard, then the water right holder may divert or store water according to its permit, subject to senior and superior water rights, as long as the flow at the measurement point does not fall below the applicable subsistence flow standard.

(c) Base flow. The applicable base flow level varies depending on the seasons as described in §298.305 of this title and the hydrologic condition described in §298.320 of this title (relating to Calculation of Hydrologic Conditions). For a water right holder to which an environmental flow standard applies, at a measurement point that applies to the water right, the water right holder is subject to the base flow standard for the hydrologic condition prevailing at that time. For all measurement points except those on the Colorado River below Lake Travis, the water right will be subject to one of the following: a dry, an average, or a wet base flow standard. For all measurement points on the Colorado River below Lake Travis, the water right will be subject to either a dry or an average base flow standard. For a water right holder to which an environmental flow standard applies, at a measurement point that applies to the water right, when the flow

at the applicable measurement point is above the applicable base flow standard, but below any applicable high flow pulse levels, the water right holder may store or divert water according to its permit, subject to senior and superior water rights, as long as the flow at the applicable measurement point does not fall below the applicable base flow standard for that hydrologic condition.

(d) High flow pulses. High flow pulses are relatively short-duration, high flows within the watercourse that occur during or immediately following a storm event.

(1) For measurement points on the Colorado River below Lake Travis, two pulses per season, one pulse per 18 months, and one pulse per two years are to be passed (i.e., no storage or diversion by an applicable water right holder), if applicable, and as described in §298.330 of this title, if streamflows are above the applicable subsistence or base flow standard, and if the applicable high flow pulse trigger level is met at the applicable measurement point. The water right holder shall not divert or store water until the daily average flow at the applicable measurement point equals at least the high flow pulse trigger level on consecutive days equaling the duration time except during times that streamflow at the applicable measurement point exceeds the applicable high flow pulse trigger level.

(2) For measurement points on the Colorado River above Lake Travis, tributaries of the Colorado River, and in the Lavaca River Basin and the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, one or two pulses per season and one pulse per year are to be passed (i.e., no storage or diversion by an applicable water right holder), if applicable, and as described in §298.330 of this title, if streamflows are above the applicable subsistence or base flow standard, and if the applicable high flow pulse trigger level is met at the applicable measurement point. The water right holder shall not divert or store water until either the applicable volume amount has passed the applicable measurement point or the duration time has passed since the high flow pulse trigger level occurred except during times that streamflow at the applicable measurement point exceeds the applicable high flow pulse trigger level.

(3) If the applicable high flow pulse trigger level does not occur in a season, then the water right holder need not stop storing or diverting water to produce a high flow pulse. The water right holder is not required to release water lawfully stored to produce a high flow pulse.

(4) Each season is independent of the preceding and subsequent seasons with respect to high flow pulse frequency.

(5) High flow pulses are independent of the hydrologic conditions set out in §298.320 of this title.

(6) If a high flow pulse requirement for a one-per-season pulse is satisfied for a particular season, one of the two-per-season pulse requirements is also considered to be satisfied. When a pulse flow requirement for an annual pulse is satisfied in a particular season, the one-per-season pulse requirement and one of the two-per-season pulse requirements are also considered to be satisfied.

(e) Stored water. A water right owner that has stored water in accordance with the terms and conditions of its water right, including any applicable environmental flow requirement in effect at the time the water was stored, may divert, release, or use this water, even if the applicable environmental flow requirement is not met at the time of the subsequent diversion, release, or use of that stored water.

§298.330. Environmental Flow Standards.

(a) A water right application in the Colorado River Basin which increases the amount of water authorized to be stored, taken or diverted as described in §298.10 of this title (relating to Applicability) shall not cause or contribute to an impairment of the inflow regimes as described in the figure in this subsection. Impairment of the inflow

regime shall be evaluated as part of the water availability determination for a new water right or amendment that is subject to this subchapter. For purposes of this subsection, impairment would occur if the application, when considered in combination with any authorizations subject to this subchapter, which were issued prior to this application, would:

(1) decrease the annual average freshwater inflow, at the most downstream point in the Colorado River Basin, below 60% of the long-term annual strategy quantity listed in Figure: 30 TAC §298.330(a)(2); and,

(2) decrease the modeled annual frequency of any inflow regime.

Figure: 30 TAC §298.330(a)(2)

Bay and Estuary Freshwater Inflow Standards for Matagorda Bay Inflows from the Colorado River Basin

Inflow Regime	**Monthly Minimum Quantity (af)**	**Spring Season Quantity (af)**	**Fall Season Quantity (af)**	**Intervening Season Quantity (af)**	**Long-Term Annual Strategy Quantity (af)**	**Annual Strategy Frequency**
Monthly Strategy Threshold	15,000	N/A	N/A	N/A	N/A	100%

Inflow						
Level 1	N/A	114,000	81,000	105,000	N/A	90%
Level 2	N/A	168,700	119,900	155,400	N/A	75%
Level 3	N/A	246,200	175,000	226,800	N/A	60%
Level 4	N/A	433,200	307,800	399,000	N/A	35%
Annual Average	N/A	N/A	N/A	N/A	1,400,000	N/A

af = acre-feet
N/A = not applicable

(b) To the extent that strategies are implemented through a water right permit or amendment to meet the freshwater inflow standards for Matagorda Bay, a water right application in the Colorado River Basin which increases the amount of water authorized to be stored, taken, or diverted as described in §298.10 of this title shall not reduce the long-term annual strategy quantity or the modeled annual frequency for any inflow regime level listed in Figure: 30 TAC §298.330(a) below the long term annual strategy quantity or modeled annual frequency that would occur in the commission's water availability model with the permitted strategy or strategies in place.

(c) A water right application in the Lavaca River basin, or Garcitas Creek located in the Lavaca-Guadalupe Coastal Basin, which increases the amount of water authorized to be stored, taken or diverted as described in §298.10 of this title, shall not cause or contribute to an impairment of the inflow regimes as described in the figure in this subsection. Impairment of the inflow regime shall be evaluated as part of the water availability determination for a new water right or amendment that is subject to this

subchapter. For purposes of this subsection, impairment would occur if the application, when considered in combination with any prior authorizations subject to this subchapter, would decrease the modeled annual frequency of any inflow regime level.

Figure: 30 TAC §298.330(c)

Bay and Estuary Freshwater Inflow Standards for the Lavaca Bay System

Inflow Regime	Spring Inflow Quantity (af)	Fall Inflow Quantity (af)	Intervening Inflow Quantity (af)	Annual Strategy Frequency
Subsistence	13,500	9,600	6,900	96%
Base Dry	55,080	39,168	28,152	82%
Base Average	127,980	91,080	65,412	46%
Base Wet	223,650	158,976	114,264	28%

af=acre feet

(d) To the extent that strategies are implemented through a water right permit or amendment to meet the freshwater inflow standards for Lavaca Bay, a water right application in the Lavaca River Basin, or on Garcitas Creek in the Lavaca-Guadalupe Coastal Basin, which increases the amount of water authorized to be stored, taken, or diverted as described in §298.10 of this title, shall not reduce the modeled annual frequency in the commission's water availability model for any inflow regime level listed in Figure: 30 TAC §298.330(c) below the level that would occur with the permitted strategy or strategies in place.

(e) The following environmental flow standards are established for the following described measurement points:

(1) Colorado River above Silver, Texas, generally described as United States Geological Survey (USGS) gage 08123850, and more specifically described as Latitude 32 degrees, 03 minutes, 13 seconds; Longitude 100 degrees, 45 minutes, 42 seconds.

Figure: 30 TAC §298.330(e)(1)

United States Geological Survey Gage 08123850, Colorado River above Silver

<table>
<tr><th>Season</th><th>Hydrologic Condition</th><th>Subsistence</th><th>Base</th><th>Small Seasonal Pulse (2 per season)</th><th>Large Seasonal Pulse (1 per season)</th><th>Annual Pulse</th></tr>
<tr><td>Winter</td><td>Severe</td><td>1 cfs</td><td>2 cfs</td><td rowspan="4">Trigger: 18 cfs Volume: 120 af Duration: 13 days</td><td rowspan="4">Trigger: 42 cfs Volume: 300 af Duration: 15 days</td><td rowspan="9">Trigger: 3,000 cfs Volume: 13,600 af Duration: 17 days</td></tr>
<tr><td>Winter</td><td>Dry</td><td>N/A</td><td>2 cfs</td></tr>
<tr><td>Winter</td><td>Average</td><td>N/A</td><td>4 cfs</td></tr>
<tr><td>Winter</td><td>Wet</td><td>N/A</td><td>7 cfs</td></tr>
<tr><td>Spring</td><td>Severe</td><td>1 cfs</td><td>2 cfs</td><td rowspan="4">Trigger: 600 cfs Volume: 2,500 af Duration: 9 days</td><td rowspan="4">Trigger: 1,800 cfs Volume: 7,900 af Duration: 11 days</td></tr>
<tr><td>Spring</td><td>Dry</td><td>N/A</td><td>2 cfs</td></tr>
<tr><td>Spring</td><td>Average</td><td>N/A</td><td>5 cfs</td></tr>
<tr><td>Spring</td><td>Wet</td><td>N/A</td><td>12 cfs</td></tr>
<tr><td>Summer</td><td>Severe</td><td>1 cfs</td><td>1 cfs</td><td rowspan="2">Trigger: 100 cfs Volume:</td><td rowspan="2">Trigger: 330 cfs Volume:</td></tr>
<tr><td>Summer</td><td>Dry</td><td>N/A</td><td>1 cfs</td></tr>
</table>

Summer	Average	N/A	3 cfs	350 af Duration: 6 days	1,400 af Duration: 9 days	
Summer	Wet	N/A	8 cfs			
Fall	Severe	1 cfs	1 cfs	Trigger: 100 cfs Volume: 400 af Duration: 6 days	Trigger: 430 cfs Volume: 1,800 af Duration: 9 days	
Fall	Dry	N/A	1 cfs			
Fall	Average	N/A	4 cfs			
Fall	Wet	N/A	10 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(2) Colorado River near Ballinger, Texas, generally described as USGS gage 08126380, and more specifically described as Latitude 31 degrees, 42 minutes, 55 seconds; Longitude 100 degrees, 01 minutes, 34 seconds.

Figure: 30 TAC §298.330(e)(2)

United States Geological Survey Gage 08126380, Colorado River near Ballinger

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	4 cfs	Trigger: 27 cfs Volume: 180 af Duration: 11 days	Trigger: 96 cfs Volume: 660 af Duration: 17 days	Trigger: 3,200 cfs Volume: 13,700 af Duration: 10 days
Winter	Dry	N/A	4 cfs			
Winter	Average	N/A	9 cfs			
Winter	Wet	N/A	14 cfs			
Spring	Severe	1 cfs	3 cfs	Trigger: 1,300 cfs Volume:	Trigger: 3,200 cfs Volume:	
Spring	Dry	N/A	3 cfs			

Spring	Average	N/A	9 cfs	5,300 af Duration: 9 days	13,700 af Duration: 10 days	
Spring	Wet	N/A	19 cfs			
Summer	Severe	1 cfs	2 cfs	Trigger: 130 cfs Volume: 490 af Duration: 6 days	Trigger: 630 cfs Volume: 2,600 af Duration: 9 days	
Summer	Dry	N/A	2 cfs			
Summer	Average	N/A	6 cfs			
Summer	Wet	N/A	14 cfs			
Fall	Severe	1 cfs	4 cfs	Trigger: 250 cfs Volume: 950 af Duration: 8 days	Trigger: 1,500 cfs Volume: 5,700 af Duration: 10 days	
Fall	Dry	N/A	4 cfs			
Fall	Average	N/A	9 cfs			
Fall	Wet	N/A	17 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(3) Colorado River near San Saba, Texas, generally described as USGS gage 08147000, and more specifically described as Latitude 31 degrees, 13 minutes, 04 seconds; Longitude 98 degrees, 33 minutes, 51 seconds.

Figure: 30 TAC §298.330(e)(3)

United States Geological Survey Gage 08147000, Colorado River near San Saba

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	50 cfs	95 cfs	Trigger: 520 cfs Volume:	Trigger: 1,600 cfs Volume:	Trigger: 18,900 cfs Volume:
Winter	Dry	N/A	95 cfs			

Winter	Average	N/A	150 cfs	3,100 af Duration: 9 days	11,100 af Duration: 15 days	129,100 af Duration: 23 days
Winter	Wet	N/A	210 cfs			
Spring	Severe	50 cfs	120 cfs	Trigger: 5,800 cfs Volume: 31,300 af Duration: 9 days	Trigger: 11,000 cfs Volume: 70,200 af Duration: 13 days	
Spring	Dry	N/A	120 cfs			
Spring	Average	N/A	190 cfs			
Spring	Wet	N/A	360 cfs			
Summer	Severe	30 cfs	72 cfs	Trigger: 510 cfs Volume: 1,900 af Duration: 4 days	Trigger: 1,400 cfs Volume: 6,500 af Duration: 7 days	
Summer	Dry	N/A	72 cfs			
Summer	Average	N/A	120 cfs			
Summer	Wet	N/A	210 cfs			
Fall	Severe	30 cfs	95 cfs	Trigger: 890 cfs Volume: 3,500 af Duration: 6 days	Trigger: 3,800 cfs Volume: 19,200 af Duration: 12 days	
Fall	Dry	N/A	95 cfs			
Fall	Average	N/A	150 cfs			
Fall	Wet	N/A	210 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(4) Elm Creek at Ballinger, Texas, generally described as USGS gage 08127000, and more specifically described as Latitude 31 degrees, 44 minutes, 57 seconds; Longitude 99 degrees, 56 minutes, 51 seconds.

Figure: 30 TAC §298.330(e)(4)

United States Geological Survey Gage 08127000, Elm Creek at Ballinger

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal**	**Large Seasonal**	**Annual Pulse**

				Pulse (2 per season)	**Pulse (1 per season)**	
Winter	Severe	1 cfs	1 cfs	Trigger: 10 cfs Volume: 71 af Duration: 10 days	Trigger: 40 cfs Volume: 270 af Duration: 1 day	Trigger: 1,900 cfs Volume: 7,200 af Duration: 18 days
Winter	Dry	N/A	1 cfs			
Winter	Average	N/A	1 cfs			
Winter	Wet	N/A	4 cfs			
Spring	Severe	1 cfs	1 cfs	Trigger: 380 cfs Volume: 1,400 af Duration: 10 days	Trigger: 1,000 cfs Volume: 3,800 af Duration: 12 days	
Spring	Dry	N/A	1 cfs			
Spring	Average	N/A	1 cfs			
Spring	Wet	N/A	5 cfs			
Summer	Severe	1 cfs	1 cfs	Trigger: 6 cfs Volume: 25 af Duration: 6 days	Trigger: 74 cfs Volume: 300 af Duration: 9 days	
Summer	Dry	N/A	1 cfs			
Summer	Average	N/A	1 cfs			
Summer	Wet	N/A	1 cfs			
Fall	Severe	1 cfs	1 cfs	Trigger: 10 cfs Volume: 46 af Duration: 9 days	Trigger: 190 cfs Volume: 850 af Duration: 15 days	
Fall	Dry	N/A	1 cfs			
Fall	Average	N/A	1 cfs			
Fall	Wet	N/A	1 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(5) Concho River at Paint Rock, Texas, generally described as USGS gage 08136500, and more specifically described as Latitude 31 degrees, 30 minutes, 57 seconds; Longitude 99 degrees, 55 minutes, 09 seconds.

Figure: 30 TAC §298.330(e)(5)

United States Geological Survey Gage 08136500, Concho River at Paint Rock

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	8 cfs	Trigger: 61 cfs Volume: 400 af Duration: 10 days	Trigger: 160 cfs Volume: 1,200 af Duration: 16 days	Trigger: 3,000 cfs Volume: 13,500 af Duration: 19 days
Winter	Dry	N/A	8 cfs			
Winter	Average	N/A	20 cfs			
Winter	Wet	N/A	36 cfs			
Spring	Severe	1 cfs	4 cfs	Trigger: 500 cfs Volume: 2,000 af Duration: 8 days	Trigger: 1,400 cfs Volume: 5,700 af Duration: 11 days	
Spring	Dry	N/A	4 cfs			
Spring	Average	N/A	14 cfs			
Spring	Wet	N/A	27 cfs			
Summer	Severe	1 cfs	1 cfs	Trigger: 32 cfs Volume: 140 af Duration: 6 days	Trigger: 110 cfs Volume: 520 af Duration: 8 days	
Summer	Dry	N/A	1 cfs			
Summer	Average	N/A	4 cfs			
Summer	Wet	N/A	12 cfs			
Fall	Severe	1 cfs	5 cfs	Trigger: 74 cfs Volume: 330 af Duration: 7 days	Trigger: 300 cfs Volume: 1,300 af Duration: 10 days	
Fall	Dry	N/A	5 cfs			
Fall	Average	N/A	16 cfs			
Fall	Wet	N/A	29 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(6) South Concho River at Christoval, Texas, generally described as USGS gage 08128000, and more specifically described as Latitude 31 degrees, 11 minutes, 13 seconds; Longitude 100 degrees, 30 minutes, 06 seconds.

Figure: 30 TAC §298.330(e)(6)

United States Geological Survey Gage 08128000, South Concho River at Christoval

<table>
<tr><th>Season</th><th>Hydrologic Condition</th><th>Subsistence</th><th>Base</th><th>Small Seasonal Pulse (2 per season)</th><th>Large Seasonal Pulse (1 per season)</th><th>Annual Pulse</th></tr>
<tr><td>Winter</td><td>Severe</td><td>2 cfs</td><td>9 cfs</td><td rowspan="4">N/A</td><td rowspan="4">N/A</td><td rowspan="12">Trigger: 420 cfs
Volume: 1,400 af
Duration: 9 days</td></tr>
<tr><td>Winter</td><td>Dry</td><td>N/A</td><td>9 cfs</td></tr>
<tr><td>Winter</td><td>Average</td><td>N/A</td><td>15 cfs</td></tr>
<tr><td>Winter</td><td>Wet</td><td>N/A</td><td>22 cfs</td></tr>
<tr><td>Spring</td><td>Severe</td><td>3 cfs</td><td>9 cfs</td><td rowspan="4">N/A</td><td rowspan="4">N/A</td></tr>
<tr><td>Spring</td><td>Dry</td><td>N/A</td><td>9 cfs</td></tr>
<tr><td>Spring</td><td>Average</td><td>N/A</td><td>15 cfs</td></tr>
<tr><td>Spring</td><td>Wet</td><td>N/A</td><td>22 cfs</td></tr>
<tr><td>Summer</td><td>Severe</td><td>2 cfs</td><td>7 cfs</td><td rowspan="4">N/A</td><td rowspan="4">N/A</td></tr>
<tr><td>Summer</td><td>Dry</td><td>N/A</td><td>7 cfs</td></tr>
<tr><td>Summer</td><td>Average</td><td>N/A</td><td>12 cfs</td></tr>
<tr><td>Summer</td><td>Wet</td><td>N/A</td><td>22 cfs</td></tr>
<tr><td>Fall</td><td>Severe</td><td>2 cfs</td><td>7 cfs</td><td rowspan="3">N/A</td><td rowspan="3">Trigger: 45 cfs
Volume: 190 af
Duration:</td></tr>
<tr><td>Fall</td><td>Dry</td><td>N/A</td><td>7 cfs</td></tr>
<tr><td>Fall</td><td>Average</td><td>N/A</td><td>12 cfs</td></tr>
</table>

Fall	Wet	N/A	22 cfs		7 days	

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(7) Pecan Bayou near Mullin, Texas, generally described as USGS gage 08143600, and more specifically described as Latitude 31 degrees, 31 minutes, 02 seconds; Longitude 98 degrees, 44 minutes, 25 seconds.

Figure: 30 TAC §298.330(e)(7)

United States Geological Survey Gage 08143600, Pecan Bayou near Mullin

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	3 cfs	Trigger: 52 cfs Volume: 230 af Duration: 7 days	Trigger: 250 cfs Volume: 1,500 af Duration: 14 days	Trigger: 3,500 cfs Volume: 25,800 af Duration: 26 days
Winter	Dry	N/A	3 cfs			
Winter	Average	N/A	7 cfs			
Winter	Wet	N/A	12 cfs			
Spring	Severe	1 cfs	3 cfs	Trigger: 710 cfs Volume: 3,600 af Duration: 10 days	Trigger: 2,100 cfs Volume: 13,200 af Duration: 17 days	
Spring	Dry	N/A	3 cfs			
Spring	Average	N/A	9 cfs			
Spring	Wet	N/A	19 cfs			
Summer	Severe	1 cfs	2 cfs	Trigger: 21 cfs Volume: 73 af Duration:	Trigger: 100 cfs Volume: 440 af Duration:	
Summer	Dry	N/A	2 cfs			
Summer	Average	N/A	4 cfs			

Summer	Wet	N/A	8 cfs	4 days	7 days	
Fall	Severe	1 cfs	3 cfs	Trigger: 36 cfs Volume: 110 af Duration: 3 days	Trigger: 250 cfs Volume: 1,200 af Duration: 9 days	
Fall	Dry	N/A	3 cfs			
Fall	Average	N/A	7 cfs			
Fall	Wet	N/A	12 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(8) San Saba River at San Saba, Texas, generally described as USGS gage 08146000, and more specifically described as Latitude 31 degrees, 12 minutes, 47 seconds; Longitude 98 degrees, 43 minutes, 09 seconds.

Figure: 30 TAC §298.330(e)(8)

United States Geological Survey Gage 08146000, San Saba River at San Saba

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	29 cfs	56 cfs	Trigger: 150 cfs Volume: 980 af Duration: 14 days	Trigger: 330 cfs Volume: 2,300 af Duration: 18 days	Trigger: 5,500 cfs Volume: 27,400 af Duration: 21 days
Winter	Dry	N/A	56 cfs			
Winter	Average	N/A	81 cfs			
Winter	Wet	N/A	110 cfs			
Spring	Severe	22 cfs	56 cfs	Trigger: 810 cfs Volume: 3,600 af Duration:	Trigger: 2,000 cfs Volume: 9,200 af Duration:	
Spring	Dry	N/A	56 cfs			
Spring	Average	N/A	81 cfs			

Spring	Wet	N/A	110 cfs	9 days	12 days	
Summer	Severe	3 cfs	32 cfs	N/A	Trigger: 210 cfs Volume: 1,100 af Duration: 9 days	
Summer	Dry	N/A	32 cfs			
Summer	Average	N/A	46 cfs			
Summer	Wet	N/A	62 cfs			
Fall	Severe	13 cfs	40 cfs	Trigger: 150 cfs Volume: 600 af Duration: 8 days	Trigger: 500 cfs Volume: 2,300 af Duration: 12 days	
Fall	Dry	N/A	40 cfs			
Fall	Average	N/A	64 cfs			
Fall	Wet	N/A	87 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(9) Llano River at Llano, Texas, generally described as USGS gage 08151500, and more specifically described as Latitude 30 degrees, 45 minutes, 04 seconds; Longitude 98 degrees, 40 minutes, 10 seconds.

Figure: 30 TAC §298.330(e)(9)

United States Geological Survey Gage 08151500, Llano River at Llano

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	44 cfs	100 cfs	Trigger: 390 cfs Volume: 2,500 af Duration:	Trigger: 1,100 cfs Volume: 6,800 af Duration:	Trigger: 9,100 cfs Volume: 46,100 af Duration:
Winter	Dry	N/A	100 cfs			
Winter	Average	N/A	150 cfs			

Winter	Wet	N/A	190 cfs	13 days	16 days	18 days
Spring	Severe	35 cfs	100 cfs	Trigger: 1,800 cfs Volume: 8,500 af Duration: 10 days	Trigger: 4,800 cfs Volume: 23,200 af Duration: 13 days	
Spring	Dry	N/A	100 cfs			
Spring	Average	N/A	150 cfs			
Spring	Wet	N/A	190 cfs			
Summer	Severe	3 cfs	67 cfs	N/A	Trigger: 560 cfs Volume: 2,600 af Duration: 9 days	
Summer	Dry	N/A	67 cfs			
Summer	Average	N/A	92 cfs			
Summer	Wet	N/A	130 cfs			
Fall	Severe	20 cfs	87 cfs	Trigger: 370 cfs Volume: 1,600 af Duration: 8 days	Trigger: 1,400 cfs Volume: 6,300 af Duration: 11 days	
Fall	Dry	N/A	87 cfs			
Fall	Average	N/A	120 cfs			
Fall	Wet	N/A	190 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(10) Pedernales River near Johnson City, Texas, generally described as USGS gage 08153500, and more specifically described as Latitude 30 degrees, 17 minutes, 30 seconds; Longitude 98 degrees, 23 minutes, 57 seconds.

Figure: 30 TAC §298.330(e)(10)

United States Geological Survey Gage 08153500, Pedernales River near Johnson City

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse**	**Large Seasonal Pulse**	**Annual Pulse**

<table>
<tr><td></td><td></td><td></td><td></td><td>(2 per season)</td><td>(1 per season)</td><td></td></tr>
<tr><td>Winter</td><td>Severe</td><td>7 cfs</td><td>23 cfs</td><td rowspan="4">Trigger: 270 cfs Volume: 1,300 af Duration: 9 days</td><td rowspan="4">Trigger: 860 cfs Volume: 4,700 af Duration: 15 days</td><td rowspan="12">Trigger: 6,980 cfs Volume: 28,320 af Duration: 15 days</td></tr>
<tr><td>Winter</td><td>Dry</td><td>N/A</td><td>23 cfs</td></tr>
<tr><td>Winter</td><td>Average</td><td>N/A</td><td>45 cfs</td></tr>
<tr><td>Winter</td><td>Wet</td><td>N/A</td><td>80 cfs</td></tr>
<tr><td>Spring</td><td>Severe</td><td>4 cfs</td><td>29 cfs</td><td rowspan="4">Trigger: 1,700 cfs Volume: 6,300 af Duration: 8 days</td><td rowspan="4">Trigger: 3,700 cfs Volume: 14,400 af Duration: 10 days</td></tr>
<tr><td>Spring</td><td>Dry</td><td>N/A</td><td>29 cfs</td></tr>
<tr><td>Spring</td><td>Average</td><td>N/A</td><td>60 cfs</td></tr>
<tr><td>Spring</td><td>Wet</td><td>N/A</td><td>110 cfs</td></tr>
<tr><td>Summer</td><td>Severe</td><td>1 cfs</td><td>16 cfs</td><td rowspan="4">N/A</td><td rowspan="4">Trigger: 290 cfs Volume: 1,100 af Duration: 7 days</td></tr>
<tr><td>Summer</td><td>Dry</td><td>N/A</td><td>16 cfs</td></tr>
<tr><td>Summer</td><td>Average</td><td>N/A</td><td>29 cfs</td></tr>
<tr><td>Summer</td><td>Wet</td><td>N/A</td><td>49 cfs</td></tr>
<tr><td>Fall</td><td>Severe</td><td>1 cfs</td><td>16 cfs</td><td rowspan="4">Trigger: 160 cfs Volume: 620 af Duration: 6 days</td><td rowspan="4">Trigger: 860 cfs Volume: 3,000 af Duration: 8 days</td></tr>
<tr><td>Fall</td><td>Dry</td><td>N/A</td><td>16 cfs</td></tr>
<tr><td>Fall</td><td>Average</td><td>N/A</td><td>29 cfs</td></tr>
<tr><td>Fall</td><td>Wet</td><td>N/A</td><td>49 cfs</td></tr>
</table>

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(11) Onion Creek near Driftwood, Texas, generally described as USGS gage 08158700, and more specifically described as Latitude 30 degrees, 04 minutes, 58 seconds; Longitude 98 degrees, 00 minutes, 27 seconds.

Figure: 30 TAC §298.330(e)(11)

United States Geological Survey Gage 08158700, Onion Creek near Driftwood

<table>
<tr><th>Season</th><th>Hydrologic Condition</th><th>Subsistence</th><th>Base</th><th>Small Seasonal Pulse (2 per season)</th><th>Large Seasonal Pulse (1 per season)</th><th>Annual Pulse</th></tr>
<tr><td>Winter</td><td>Severe</td><td>1 cfs</td><td>2 cfs</td><td rowspan="4">N/A</td><td rowspan="4">Trigger: 170 cfs
Volume: 1,900 af
Duration: 20 days</td><td rowspan="12">Trigger: 1,200 cfs
Volume: 8,700 af
Duration: 34 days</td></tr>
<tr><td>Winter</td><td>Dry</td><td>N/A</td><td>2 cfs</td></tr>
<tr><td>Winter</td><td>Average</td><td>N/A</td><td>6 cfs</td></tr>
<tr><td>Winter</td><td>Wet</td><td>N/A</td><td>26 cfs</td></tr>
<tr><td>Spring</td><td>Severe</td><td>1 cfs</td><td>4 cfs</td><td rowspan="4">Trigger: 200 cfs
Volume: 1,100 af
Duration: 11 days</td><td rowspan="4">Trigger: 620 cfs
Volume: 3,700 af
Duration: 19 days</td></tr>
<tr><td>Spring</td><td>Dry</td><td>N/A</td><td>4 cfs</td></tr>
<tr><td>Spring</td><td>Average</td><td>N/A</td><td>12 cfs</td></tr>
<tr><td>Spring</td><td>Wet</td><td>N/A</td><td>34 cfs</td></tr>
<tr><td>Summer</td><td>Severe</td><td>1 cfs</td><td>1 cfs</td><td rowspan="4">N/A</td><td rowspan="4">N/A</td></tr>
<tr><td>Summer</td><td>Dry</td><td>N/A</td><td>1 cfs</td></tr>
<tr><td>Summer</td><td>Average</td><td>N/A</td><td>3 cfs</td></tr>
<tr><td>Summer</td><td>Wet</td><td>N/A</td><td>7 cfs</td></tr>
<tr><td>Fall</td><td>Severe</td><td>1 cfs</td><td>1 cfs</td><td rowspan="4">Trigger: 18 cfs
Volume: 70 af
Duration: 5 days</td><td rowspan="4">Trigger: 120 cfs
Volume: 560 af
Duration: 11 days</td></tr>
<tr><td>Fall</td><td>Dry</td><td>N/A</td><td>1 cfs</td></tr>
<tr><td>Fall</td><td>Average</td><td>N/A</td><td>3 cfs</td></tr>
<tr><td>Fall</td><td>Wet</td><td>N/A</td><td>7 cfs</td></tr>
</table>

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(12) Colorado River at Bastrop, Texas, generally described as USGS gage 08159200, and more specifically described as Latitude 30 degrees, 06 minutes, 16 seconds; Longitude 97 degrees, 19 minutes, 09 seconds.

(A) United States Geological Survey Gage 08159200, Colorado River at Bastrop.

Figure: 30 TAC §298.330(e)(12)(A)

United States Geological Survey Gage 08159200, Colorado River at Bastrop

Season	**Month**	**Hydrologic Condition**	**Subsistence**	**Base**	**Seasonal Pulse (2 per season)**
Winter	December	Severe	186 cfs	311 cfs	Magnitude: 3,000 cfs Duration: 4 days
	December	Dry	N/A	311 cfs	
	December	Average	N/A	450 cfs	
	January	Severe	208 cfs	313 cfs	
	January	Dry	N/A	313 cfs	
	January	Average	N/A	433 cfs	
	February	Severe	274	317 cfs	
	February	Dry	N/A	317 cfs	
	February	Average	N/A	497 cfs	
Spring	March	Severe	274 cfs	274 cfs	Magnitude: 3,000 cfs Duration: 4 days
	March	Dry	N/A	274 cfs	
	March	Average	N/A	497 cfs	
	April	Severe	184 cfs	287 cfs	
	April	Dry	N/A	287 cfs	
	April	Average	N/A	635 cfs	
	May	Severe	275 cfs	579 cfs	
	May	Dry	N/A	579 cfs	
	May	Average	N/A	824 cfs	

	June	Severe	202 cfs	418 cfs	
	June	Dry	N/A	418 cfs	
	June	Average	N/A	733 cfs	
Summer	July	Severe	137 cfs	347 cfs	Magnitude: 3,000 cfs Duration: 4 days
	July	Dry	N/A	347 cfs	
	July	Average	N/A	610 cfs	
	August	Severe	123 cfs	194 cfs	
	August	Dry	N/A	194 cfs	
	August	Average	N/A	381 cfs	
Fall	September	Severe	123 cfs	236 cfs	Magnitude: 3,000 cfs Duration: 4 days
	September	Dry	N/A	236 cfs	
	September	Average	N/A	423 cfs	
	October	Severe	127 cfs	245 cfs	
	October	Dry	N/A	245 cfs	
	October	Average	N/A	433 cfs	
	November	Severe	180 cfs	283 cfs	
	November	Dry	N/A	283 cfs	
	November	Average	N/A	424 cfs	

cfs = cubic feet per second
N/A = not applicable

(B) United States Geological Survey Gage 08159200, Colorado River at Bastrop.

Figure: 30 TAC §298.330(e)(12)(B)

United States Geological Survey Gage 08159200, Colorado River at Bastrop

Pulse Frequency	**Pulse Magnitude**	**Pulse Duration**
1 per 18 months	8,000 cfs	2 days

cfs = cubic feet per second

(13) Colorado River at Columbus, Texas, generally described as USGS gage 08161000, and more specifically described as Latitude 29° 42' 22"; Longitude 96° 32' 12".

(A) United States Geological Survey Gage 08161000, Colorado River at Columbus.

Figure: 30 TAC §298.330(e)(13)(A)

United States Geological Survey Gage 08161000, Colorado River at Columbus

Season	**Month**	**Hydrologic Condition**	**Subsistence**	**Base**	**Seasonal Pulse (2 per season)**
Winter	December	Severe	301 cfs	464 cfs	Magnitude: 3,000 cfs Duration: 4 days
	December	Dry	N/A	464 cfs	
	December	Average	N/A	737 cfs	
	January	Severe	340 cfs	487 cfs	
	January	Dry	N/A	487 cfs	
	January	Average	N/A	828 cfs	
	February	Severe	375	590 cfs	
	February	Dry	N/A	590 cfs	
	February	Average	N/A	895 cfs	
Spring	March	Severe	375 cfs	525 cfs	Magnitude: 3,000 cfs Duration: 4 days
	March	Dry	N/A	525 cfs	
	March	Average	N/A	1,020 cfs	
	April	Severe	299 cfs	554 cfs	
	April	Dry	N/A	554 cfs	
	April	Average	N/A	977 cfs	

	May	Severe	425 cfs	966 cfs	
	May	Dry	N/A	966 cfs	
	May	Average	N/A	1,316 cfs	
	June	Severe	534 cfs	967 cfs	
	June	Dry	N/A	967 cfs	
	June	Average	N/A	1,440 cfs	
Summer	July	Severe	342 cfs	570 cfs	Magnitude: 3,000 cfs Duration: 4 days
	July	Dry	N/A	570 cfs	
	July	Average	N/A	895 cfs	
	August	Severe	190 cfs	310 cfs	
	August	Dry	N/A	310 cfs	
	August	Average	N/A	516 cfs	
Fall	September	Severe	279 cfs	405 cfs	Magnitude: 3,000 cfs Duration: 4 days
	September	Dry	N/A	405 cfs	
	September	Average	N/A	610 cfs	
	October	Severe	190 cfs	356 cfs	
	October	Dry	N/A	356 cfs	
	October	Average	N/A	741 cfs	
	November	Severe	202 cfs	480 cfs	
	November	Dry	N/A	480 cfs	
	November	Average	N/A	755 cfs	

cfs = cubic feet per second
N/A = not applicable

(B) United States Geological Survey Gage 08161000, Colorado River at Columbus.

Figure: 30 TAC §298.330(e)(13)(B)

United States Geological Survey Gage 08161000, Colorado River at Columbus

Pulse Frequency	Pulse Magnitude	Pulse Duration
1 per 18 months	8,000 cfs	2 days
1 per 2 years	27,000 cfs	2 days

cfs = cubic feet per second

(14) Colorado River at Wharton, Texas, generally described as USGS gage 08162000, and more specifically described as Latitude 29 degrees, 18 minutes, 32 seconds; Longitude 96 degrees, 06 minutes, 13 seconds.

(A) United States Geological Survey Gage 08162000, Colorado River at Wharton.

Figure: 30 TAC §298.330(e)(14)(A)

United States Geological Survey Gage 08162000, Colorado River at Wharton

Season	Month	Hydrologic Condition	Subsistence	Base	Seasonal Pulse (2 per season)
Winter	December	Severe	202 cfs	470 cfs	Magnitude: 3,000 cfs Duration: 4 days
	December	Dry	N/A	470 cfs	
	December	Average	N/A	746 cfs	
	January	Severe	315 cfs	492 cfs	
	January	Dry	N/A	492 cfs	
	January	Average	N/A	838 cfs	
	February	Severe	303	597 cfs	
	February	Dry	N/A	597 cfs	

	February	Average	N/A	906 cfs	
Spring	March	Severe	204 cfs	531 cfs	Magnitude: 3,000 cfs Duration: 4 days
	March	Dry	N/A	531 cfs	
	March	Average	N/A	1,036 cfs	
	April	Severe	270 cfs	561 cfs	
	April	Dry	N/A	561 cfs	
	April	Average	N/A	1,011 cfs	
	May	Severe	304 cfs	985 cfs	
	May	Dry	N/A	985 cfs	
	May	Average	N/A	1,397 cfs	
	June	Severe	371 cfs	984 cfs	
	June	Dry	N/A	984 cfs	
	June	Average	N/A	1,512 cfs	
Summer	July	Severe	212 cfs	577 cfs	Magnitude: 3,000 cfs Duration: 4 days
	July	Dry	N/A	577 cfs	
	July	Average	N/A	906 cfs	
	August	Severe	107 cfs	314 cfs	
	August	Dry	N/A	314 cfs	
	August	Average	N/A	522 cfs	
Fall	September	Severe	188 cfs	410 cfs	Magnitude: 3,000 cfs Duration: 4 days
	September	Dry	N/A	410 cfs	
	September	Average	N/A	617 cfs	
	October	Severe	147 cfs	360 cfs	
	October	Dry	N/A	360 cfs	
	October	Average	N/A	749 cfs	
	November	Severe	173 cfs	486 cfs	
	November	Dry	N/A	486 cfs	
	November	Average	N/A	764 cfs	

cfs = cubic feet per second
N/A = not applicable

(B) United States Geological Survey Gage 08162000, Colorado River at Wharton.

Figure: 30 TAC §298.330(e)(14)(B)

United States Geological Survey Gage 08162000, Colorado River at Wharton

Pulse Frequency	**Pulse Magnitude**	**Pulse Duration**
1 per 18 months	8,000 cfs	2 days
1 per 2 years	27,000 cfs	2 days

cfs = cubic feet per second

(15) Lavaca River near Edna, Texas, generally described as USGS gage 08164000, and more specifically described as Latitude 28 degrees, 57 minutes, 35 seconds; Longitude 96 degrees, 41 minutes, 10 seconds.

Figure: 30 TAC §298.330(e)(15)

United States Geological Survey Gage 08164000, Lavaca River near Edna

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	8.5 cfs	30 cfs	Trigger: 2,000 cfs Volume: 8,000 af Duration: 6 days	Trigger: 4,500 cfs Volume: 18,400 af Duration: 7 days	Trigger: 4,500 cfs Volume: 18,400 af Duration: 7 days
Winter	Dry	N/A	30 cfs			
Winter	Average	N/A	55 cfs			
Winter	Wet	N/A	94 cfs			
Spring	Severe	10 cfs	30 cfs	Trigger:	Trigger:	

Spring	Dry	N/A	30 cfs	4,500 cfs Volume: 18,400 af Duration: 7 days	4,500 cfs Volume: 18,400 af Duration: 7 days	
Spring	Average	N/A	55 cfs			
Spring	Wet	N/A	94 cfs			
Summer	Severe	1.3 cfs	20 cfs	Trigger: 88 cfs Volume: 370 af Duration: 4 days	Trigger: 420 cfs Volume: 1,800 af Duration: 6 days	
Summer	Dry	N/A	20 cfs			
Summer	Average	N/A	48 cfs			
Summer	Wet	N/A	33 cfs			
Fall	Severe	1.2 cfs	20 cfs	Trigger: 1,600 cfs Volume: 6,100 af Duration: 5 days	Trigger: 4,500 cfs Volume: 18,000 af Duration: 6 days	
Fall	Dry	N/A	20 cfs			
Fall	Average	N/A	33 cfs			
Fall	Wet	N/A	58 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(16) Navidad River at Strane Park near Edna, Texas, generally described as USGS gage 08164390, and more specifically described as Latitude 29 degrees, 03 minutes, 55 seconds; Longitude 96 degrees, 40 minutes, 26 seconds.

Figure: 30 TAC §298.330(e)(16)

United States Geological Survey Gage 08164390, Navidad River at Strane Park near Edna

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**

<table>
<tr><td>Winter</td><td>Severe</td><td>1 cfs</td><td>14 cfs</td><td rowspan="4">Trigger: 2,000 cfs Volume: 9,000 af Duration: 6 days</td><td rowspan="4">Trigger: 2,500 cfs Volume: 11,250 af Duration: 7 days</td><td rowspan="12">Trigger: 2,500 cfs Volume: 11,250 af Duration: 7 days</td></tr>
<tr><td>Winter</td><td>Dry</td><td>N/A</td><td>14 cfs</td></tr>
<tr><td>Winter</td><td>Average</td><td>N/A</td><td>35 cfs</td></tr>
<tr><td>Winter</td><td>Wet</td><td>N/A</td><td>71 cfs</td></tr>
<tr><td>Spring</td><td>Severe</td><td>2.8 cfs</td><td>18 cfs</td><td rowspan="4">Trigger: 2,500 cfs Volume: 11,250 af Duration: 7 days</td><td rowspan="4">Trigger: 2,500 cfs Volume: 11,250 af Duration: 7 days</td></tr>
<tr><td>Spring</td><td>Dry</td><td>N/A</td><td>18 cfs</td></tr>
<tr><td>Spring</td><td>Average</td><td>N/A</td><td>35 cfs</td></tr>
<tr><td>Spring</td><td>Wet</td><td>N/A</td><td>71 cfs</td></tr>
<tr><td>Summer</td><td>Severe</td><td>1.2 cfs</td><td>24 cfs</td><td rowspan="4">Trigger: 200 cfs Volume: 1,000 af Duration: 5 days</td><td rowspan="4">Trigger: 610 cfs Volume: 3,400 af Duration: 6 days</td></tr>
<tr><td>Summer</td><td>Dry</td><td>N/A</td><td>24 cfs</td></tr>
<tr><td>Summer</td><td>Average</td><td>N/A</td><td>47 cfs</td></tr>
<tr><td>Summer</td><td>Wet</td><td>N/A</td><td>84 cfs</td></tr>
<tr><td>Fall</td><td>Severe</td><td>2.2 cfs</td><td>17 cfs</td><td rowspan="4">Trigger: 2,000 cfs Volume: 8,700 af Duration: 6 days</td><td rowspan="4">Trigger: 2,500 cfs Volume: 11,250 af Duration: 7 days</td></tr>
<tr><td>Fall</td><td>Dry</td><td>N/A</td><td>17 cfs</td></tr>
<tr><td>Fall</td><td>Average</td><td>N/A</td><td>35 cfs</td></tr>
<tr><td>Fall</td><td>Wet</td><td>N/A</td><td>71 cfs</td></tr>
</table>

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(17) Sandy Creek near Ganado, Texas, generally described as USGS gage 08164450, and more specifically described as Latitude 29 degrees, 09 minutes, 36 seconds; Longitude 96 degrees, 32 minutes, 46 seconds.

Figure: 30 TAC §298.330(e)(17)

United States Geological Survey Gage 08164450, Sandy Creek near Ganado

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	5 cfs	Trigger: 800 cfs Volume: 4,000 af Duration: 6 days	Trigger: 1,800 cfs Volume: 10,000 af Duration: 8 days	Trigger: 2,200 cfs Volume: 12,200 af Duration: 10 days
Winter	Dry	N/A	5 cfs			
Winter	Average	N/A	14 cfs			
Winter	Wet	N/A	30 cfs			
Spring	Severe	1 cfs	5 cfs	Trigger: 1,400 cfs Volume: 7,300 af Duration: 6 days	Trigger: 2,200 cfs Volume: 12,200 af Duration: 10 days	
Spring	Dry	N/A	5 cfs			
Spring	Average	N/A	14 cfs			
Spring	Wet	N/A	30 cfs			
Summer	Severe	1 cfs	9 cfs	Trigger: 91 cfs Volume: 500 af Duration: 4 days	Trigger: 260 cfs Volume: 1,600 af Duration: 7 days	
Summer	Dry	N/A	9 cfs			
Summer	Average	N/A	21 cfs			
Summer	Wet	N/A	39 cfs			
Fall	Severe	1 cfs	9 cfs	Trigger: 630 cfs Volume: 3,100 af Duration: 6 days	Trigger: 1,800 cfs Volume: 9,200 af Duration: 7 days	
Fall	Dry	N/A	9 cfs			
Fall	Average	N/A	21 cfs			
Fall	Wet	N/A	39 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(18) East Mustang Creek near Louise, Texas, generally described as USGS gage 08164504, and more specifically described as Latitude 29 degrees, 04 minutes, 14 seconds; Longitude 96 degrees, 25 minutes, 01 seconds.

Figure: 30 TAC §298.330(e)(18)

United States Geological Survey Gage 08164504, East Mustang Creek near Louise

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	1 cfs	Trigger: 150 cfs Volume: 680 af Duration: 5 days	Trigger: 340 cfs Volume: 1,700 af Duration: 8 days	Trigger: 1,000 cfs Volume: 6,000 af Duration: 10 days
Winter	Dry	N/A	1 cfs			
Winter	Average	N/A	2 cfs			
Winter	Wet	N/A	6 cfs			
Spring	Severe	1 cfs	1 cfs	Trigger: 280 cfs Volume: 1,400 af Duration: 7 days	Trigger: 550 cfs Volume: 3,000 af Duration: 9 days	
Spring	Dry	N/A	1 cfs			
Spring	Average	N/A	3 cfs			
Spring	Wet	N/A	6 cfs			
Summer	Severe	1 cfs	2 cfs	Trigger: 20 cfs Volume: 100 af Duration: 5 days	Trigger: 60 cfs Volume: 310 af Duration: 6 days	
Summer	Dry	N/A	2 cfs			
Summer	Average	N/A	5 cfs			
Summer	Wet	N/A	8 cfs			
Fall	Severe	1 cfs	1 cfs	Trigger: 150 cfs Volume: 650 af Duration: 6 days	Trigger: 430 cfs Volume: 2,100 af Duration: 7 days	
Fall	Dry	N/A	1 cfs			
Fall	Average	N/A	3 cfs			
Fall	Wet	N/A	8 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(19) West Mustang Creek near Ganado, Texas, generally described as USGS gage 08164503, and more specifically described as Latitude 29 degrees, 04 minutes, 18.69 seconds; Longitude 96 degrees, 28 minutes, 04.90 seconds.

Figure: 30 TAC §298.330(e)(19)

United States Geological Survey Gage 08164503, West Mustang Creek near Ganado

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	4 cfs	Trigger: 470 cfs Volume: 2,400 af Duration: 6 days	Trigger: 1,000 cfs Volume: 5,600 af Duration: 8 days	Trigger: 1,000 cfs Volume: 5,600 af Duration: 8 days
Winter	Dry	N/A	4 cfs			
Winter	Average	N/A	9 cfs			
Winter	Wet	N/A	20 cfs			
Spring	Severe	1 cfs	5 cfs	Trigger: 810 cfs Volume: 4,400 af Duration: 6 days	Trigger: 1,000 cfs Volume: 5,600 af Duration: 8 days	
Spring	Dry	N/A	5 cfs			
Spring	Average	N/A	11 cfs			
Spring	Wet	N/A	20 cfs			
Summer	Severe	1 cfs	10 cfs	Trigger: 75 cfs Volume: 420 af Duration: 4 days	Trigger: 190 cfs Volume: 1,200 af Duration: 6 days	
Summer	Dry	N/A	10 cfs			
Summer	Average	N/A	18 cfs			
Summer	Wet	N/A	32 cfs			
Fall	Severe	1 cfs	6 cfs	Trigger: 470 cfs Volume: 2,200 af Duration:	Trigger: 1,000 cfs Volume: 5,600 af Duration:	
Fall	Dry	N/A	6 cfs			
Fall	Average	N/A	14 cfs			

Fall	Wet	N/A	26 cfs	6 days	8 days	

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(20) Garcitas Creek near Inez, Texas, generally described as USGS gage 08164600, and more specifically described as Latitude 28 degrees, 53 minutes, 28 seconds; Longitude 96 degrees, 49 minutes, 08 seconds.

Figure: 30 TAC §298.330(e)(20)

United States Geological Survey Gage 08164600, Garcitas Creek near Inez

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	1 cfs	2 cfs	Trigger: 110 cfs Volume: 520 af Duration: 8 days	Trigger: 380 cfs Volume: 1,500 af Duration: 10 days	Trigger: 380 cfs Volume: 1,500 af Duration: 10 days
Winter	Dry	N/A	2 cfs			
Winter	Average	N/A	4 cfs			
Winter	Wet	N/A	7 cfs			
Spring	Severe	1 cfs	2 cfs	Trigger: 380 cfs Volume: 1,500 af Duration: 10 days	Trigger: 380 cfs Volume: 1,500 af Duration: 10 days	
Spring	Dry	N/A	2 cfs			
Spring	Average	N/A	4 cfs			
Spring	Wet	N/A	7 cfs			
Summer	Severe	1 cfs	1 cfs	Trigger: 8 cfs Volume: 28 af Duration:	Trigger: 36 cfs Volume: 150 af Duration:	
Summer	Dry	N/A	1 cfs			
Summer	Average	N/A	2 cfs			

Summer	Wet	N/A	3 cfs	4 days	8 days	
Fall	Severe	1 cfs	1 cfs	Trigger: 110 cfs Volume: 420 af Duration: 8 days	Trigger: 380 cfs Volume: 1,500 af Duration: 10 days	
Fall	Dry	N/A	1 cfs			
Fall	Average	N/A	2 cfs			
Fall	Wet	N/A	5 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(21) Tres Palacios River near Midfield, Texas, generally described as USGS gage 08162600, and more specifically described as Latitude 28 degrees, 55 minutes, 40 seconds; Longitude 96 degrees, 10 minutes, 15 seconds.

Figure: 30 TAC §298.330(e)(21)

United States Geological Survey Gage 08162600, Tres Palacios River near Midfield

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**	**Annual Pulse**
Winter	Severe	2 cfs	9 cfs	Trigger: 650 cfs Volume: 2,500 af Duration: 6 days	Trigger: 1,300 cfs Volume: 4,900 af Duration: 6 days	Trigger: 2,000 cfs Volume: 9,000 af Duration: 8 days
Winter	Dry	N/A	9 cfs			
Winter	Average	N/A	13 cfs			
Winter	Wet	N/A	18 cfs			
Spring	Severe	2.5 cfs	9 cfs	Trigger: 1,200 cfs Volume: 4,400 af Duration:	Trigger: 1,900 cfs Volume: 7,100 af Duration:	
Spring	Dry	N/A	9 cfs			
Spring	Average	N/A	13 cfs			

Spring	Wet	N/A	22 cfs	6 days	6 days	
Summer	Severe	1 cfs	7 cfs	Trigger: 75 cfs Volume: 360 af Duration: 5 days	Trigger: 280 cfs Volume: 1,300 af Duration: 6 days	
Summer	Dry	N/A	7 cfs			
Summer	Average	N/A	13 cfs			
Summer	Wet	N/A	22 cfs			
Fall	Severe	1 cfs	7 cfs	Trigger: 800 cfs Volume: 3,200 af Duration: 6 days	Trigger: 1,900 cfs Volume: 7,700 af Duration: 7 days	
Fall	Dry	N/A	7 cfs			
Fall	Average	N/A	13 cfs			
Fall	Wet	N/A	18 cfs			

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

§298.335. Water Right Permit Conditions.

(a) For water right permits with an authorization to store or divert water from the Colorado River above Lake Travis, tributaries of the Colorado River, the Lavaca River Basin, and the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, except for water right permits located below Lake Travis on the Colorado River, and to which the environmental flow standards apply, that are issued after the effective date of this subchapter, the water right permit or amendment shall contain flow restriction special conditions that are adequate to protect the environmental flow standards of this subchapter.

(b) For water right permits with an authorization to divert at a rate greater than 500 cubic feet per second (cfs) or to store more than 2,500 acre-feet in an on-channel reservoir, on the Colorado River below Lake Travis, and to which the environmental flow standards apply, that are issued after the effective date of this subchapter, the water right permit or amendment shall contain flow restriction special conditions that are adequate to protect the environmental flow standards of this subchapter.

(c) For water right permits with an authorization to divert at a rate less than 500 cfs or to store less than 2,500 acre-feet in an on-channel reservoir, on the Colorado River below Lake Travis, and to which the environmental flow standards apply, that are issued after the effective date of this subchapter, the water right permit or amendment shall contain flow restriction special conditions that are adequate to protect the environmental flow standards of this subchapter; however, no special conditions are necessary to preserve or pass high flow pulses.

§298.340. Schedule for Revision of Standards.

The environmental flow standards or environmental flow set-asides adopted herein for the Colorado and Lavaca River Basins, the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, and Matagorda and Lavaca Bays may be revised by the commission through the rulemaking process. The final revised rules shall be effective no

sooner than ten years from the effective date of this rule, unless the Colorado and Lavaca Basin and Bay Area Stakeholder Committee submits a work plan approved by the Environmental Flows Advisory Group under Texas Water Code, §11.02362(p), that provides for a periodic review to occur more frequently. The rulemaking process shall include participation by a balanced representation of stakeholders having interests in the Colorado and Lavaca River Basins, the Colorado-Lavaca and Lavaca-Guadalupe Coastal Basins, and Matagorda and Lavaca Bays.

SUBCHAPTER E: GUADALUPE, SAN ANTONIO, MISSION, AND ARANSAS RIVERS, AND MISSION, COPANO, ARANSAS, AND SAN ANTONIO BAYS §§298.350, 298.355, 298.360, 298.365, 298.370, 298.375, 298.380, 298.385, 298.390

Statutory Authority

The new sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers; §5.103, concerning Rules; and §5.105 concerning General Policy, which authorize the commission to adopt rules as necessary to carry out its power and duties under the TWC. The new sections are also proposed under TWC, §11.0235, concerning Policy Regarding Waters of the State; §11.147, concerning Effects of Permit on Bays and Estuaries and Instream Uses; and §11.1471, concerning Environmental Flow Standards and Set-Asides.

The proposed new sections implement TWC, §§11.0235, 11.147, and 11.1471.

§298.350. Applicability and Purpose.

This subchapter contains the environmental flow standards for the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays. The provisions of this subchapter control over

any provisions of Subchapter A of this chapter (relating to General Provisions) that are inconsistent with this subchapter relating to environmental flow standards and regulation in the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, and Mission, Copano, Aransas, and San Antonio Bays.

§298.355. Definitions.

The following words or phrases have the following meanings in this subchapter unless the context clearly indicates otherwise:

(1) Average condition--for all measurement points for which a hydrologic condition is applicable, the hydrologic condition that would occur approximately 50% of the time.

(2) Dry condition--for all measurement points for which a hydrologic condition is applicable, the hydrologic condition that would occur approximately 25% of the time.

(3) Fall--the period of time October through December, inclusive.

(4) Inflow regime level--a freshwater inflow pattern, at the most downstream point in the Guadalupe and San Antonio River Basins for San Antonio Bay, or at the most downstream points in the San Antonio-Nueces Coastal Basin for the Mission-Aransas Estuary, that includes quantities and frequencies.

(5) Modeled permitting frequency--the frequencies at which specific volumes of freshwater inflows occur in the commission's water availability models for the river basins included in this subchapter.

(6) Spring--the period of time April through June, inclusive.

(7) Sound ecological environment--maintains, to some reasonable level, the physical, chemical, and biological attributes and processes of the natural system.

(8) Strategy target frequency--the frequencies at which specific volumes of freshwater inflows occur, and which are used for the sole purpose of providing additional freshwater inflows to the bays and estuaries included in this subchapter through voluntary strategies.

(9) Summer--the period of time July through September, inclusive.

(10) Wet condition--for all measurement points for which a hydrologic condition is applicable, the hydrologic condition that would occur approximately 25% of the time.

(11) Winter--the period of time January through March, inclusive.

§298.360. Findings.

(a) The Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, Mission, Copano, Aransas, and San Antonio Bays, and the associated estuaries are substantially sound ecological environments.

(b) For the Guadalupe, San Antonio, Mission, and Aransas Rivers, and their associated tributaries, the commission finds that these sound ecological environments can best be maintained by a set of flow standards that implement a schedule of flow quantities that contain subsistence flow, base flow, and high flow pulses at defined measurement points. Minimum flow levels for these components will vary by season and by year since the amount of precipitation and, therefore, whether a system is in subsistence or base flow conditions, will vary from year to year and within a year from season to season, and the number of pulses protected will also vary with the amount of

precipitation.

(c) For Mission, Copano, Aransas, and San Antonio Bays, the commission finds that the sound ecological environment of these bays can best be maintained by a set of freshwater inflow standards that include freshwater inflow quantities that vary by season.

§298.365. Set-Asides and Standards Priority Date.

The priority date for the environmental flow standards and set-asides established by this subchapter is March 1, 2011. The priority date for the environmental flow standards will be used in the water availability determination for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and has no other purpose.

§298.370. Calculation of Hydrologic Conditions.

(a) For new water right authorizations in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin which increase the amount of water authorized to be stored, taken, or diverted as described in §298.10 of this title (relating to Applicability), the determination of the hydrologic condition for a particular season shall be

determined once per season. The conditions present on the last day of the month of the preceding season will determine the hydrologic condition for the following season for the applicable measurement point. For each measurement point specified in the applicable river or coastal basin, cumulative streamflow for the previous 12 months will determine the hydrologic condition.

(b) For purposes of permit special conditions related to hydrologic conditions, for water right applications in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, which increase the amount of water to be stored, taken, or diverted, the hydrologic condition shall be calculated using the full period of record for the United States Geological Survey (USGS) gage at each measurement point such that dry conditions occur approximately 25% of the time, average conditions occur approximately 50% of the time, and wet conditions occur approximately 25% of the time.

(c) For purposes of water availability determinations, for water right permit applications in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, which increase the amount of water to be stored, taken, or diverted, hydrologic conditions used in the commission's water availability models shall be calculated such that dry conditions occur approximately 25% of the time, average conditions occur approximately 50% of the time, and wet conditions occur approximately 25% of the

time, based on the period of record and simulated flows of the applicable water availability model.

§298.375. Schedule of Flow Quantities.

(a) Schedule of flow quantities. The environmental flow standards adopted by this subchapter constitute a schedule of flow quantities made up of subsistence flow, base flow, and high flow pulses. Environmental flow standards are established for 16 measurement points in §298.380 of this title (relating to Environmental Flow Standards) and this section.

(b) Subsistence flow. The applicable subsistence flow standard varies depending on the seasons as described in §298.355 of this title (relating to Definitions). For a water right holder to which an environmental flow standard applies, at a measurement point that applies to the water right, the water right holder may not store or divert water, unless the flow at the measurement point is above the applicable subsistence flow standard for that point. For measurement points in the Guadalupe River Basin, if the flow at the applicable measurement point is above the subsistence flow standard but below the base flow standard, then the water right holder must allow the applicable subsistence flow, plus 50% of the difference between measured streamflow and the applicable subsistence flow, to pass its measurement point and any remaining flow may

be diverted or stored, according to its permit, subject to senior and superior water rights, as long as the flow at the measurement point does not fall below the applicable subsistence flow standard. For measurement points in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, during dry hydrologic conditions, if the flow at the applicable measurement point is above the subsistence flow standard but below the applicable dry base flow standard, then the water right holder must allow the applicable subsistence flow, plus 50% of the difference between measured streamflow and the applicable subsistence flow, to pass its measurement points and any remaining flow may be diverted or stored, according to its permit, subject to senior and superior water rights, as long as the flow at the measurement point does not fall below the applicable subsistence flow standard.

(c) Base flow. The applicable base flow level varies depending on the seasons as described in §298.355 of this title, and the hydrologic condition described in §298.370 of this title (relating to Calculation of Hydrologic Conditions) for river and coastal basins to which a hydrologic condition applies. For a water right holder in the San Antonio River Basin or the San Antonio-Nueces Coastal Basin, to which an environmental flow standard applies, at a measurement point that applies to the water right, the water right holder is subject to the base flow standard for the hydrologic condition prevailing at that time, i.e., the water right holder will be subject to one of the following: a dry, an average, or a wet base flow standard. For a water right holder in the Guadalupe River Basin, to

which an environmental flow standard applies, at a measurement point that applies to a water right, the water right holder is subject to a base flow standard. For a water right holder to which an environmental flow standard applies, at a measurement point that applies to the water right, when the flow at the applicable measurement point is above the applicable base flow standard, but below any applicable high flow pulse trigger levels, the water right holder may store or divert water according to its permit, subject to senior and superior water rights, as long as the flow at the applicable measurement point does not fall below the applicable base flow standard.

(d) High flow pulses. High flow pulses are relatively short-duration, high flows within the watercourse that occur during or immediately following a storm event.

(1) For measurement points in the Guadalupe River Basin, two pulses per season are to be passed (i.e., no storage or diversion by an applicable water right holder), if applicable, and as described in §298.380 of this title, if the flows are above the applicable base flow standard, and if the applicable high flow pulse trigger level is met at the applicable measurement point. The water right holder shall not divert or store water except during times that streamflow at the applicable measurement point exceeds the applicable high flow pulse trigger level and until either the applicable volume amount has passed the measurement point or the duration time has passed since the high flow pulse trigger level occurred.

(2) For measurement points in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, one, two, or three pulses per season are to be passed (i.e., no storage or diversion by an applicable water right holder), if applicable, and as described in §298.380 of this title, if the flows are above the applicable base flow standard, and if the applicable high flow pulse trigger level is met at the applicable measurement point. For the measurement points described in §298.380(d)(12) - (15) of this title, the water right holder shall not divert or store water until the daily average flow at the applicable measurement point equals at least the large high flow pulse trigger level on consecutive days equaling the duration time, except during times that streamflow at the applicable measurement point exceeds the applicable high flow pulse trigger level. For all other measurement points in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin and for small seasonal pulses at the measurement points described in §298.380(d)(12) - (15) of this title, the water right holder shall not divert or store water except during times that streamflow at the applicable measurement point exceeds the applicable high flow pulse trigger level and until either the applicable volume amount has passed the measurement point or the duration time has passed since the high flow pulse trigger level occurred.

(3) If the applicable high flow pulse flow trigger level does not occur in a season, then the water right holder need not stop storing or diverting to produce a high

flow pulse. The water right holder is not required to release water lawfully stored to produce a high flow pulse.

(4) Each season is independent of the preceding and subsequent seasons with respect to high flow pulse frequency.

(5) High flow pulses are independent of the hydrologic conditions set out in §298.370 of this title, for measurement points for which a hydrologic condition is applicable. For all other measurement points, high flow pulses are applicable under both subsistence and base flow conditions.

(6) For measurement points in the San Antonio River Basin and the San Antonio-Nueces Coastal Basin, except those described in §298.380(d)(12) - (15) of this title, if a pulse flow requirement for a large seasonal pulse is satisfied for a particular season, one of the smaller pulse requirements is also considered to be satisfied. For measurement points described in §298.380(d)(12) - (15) of this title, if a pulse flow requirement for a large seasonal pulse is satisfied, all smaller pulse requirements for the applicable season are also considered to be satisfied.

(e) Stored water. A water right owner that has stored water in accordance with the terms and conditions of its water right, including any applicable environmental flow

requirement in effect at the time the water was stored, may divert, release, or use this water, even if the applicable environmental flow requirement is not met at the time of the subsequent diversion, release, or use of that stored water.

§298.380. Environmental Flow Standards.

(a) A water right application in the Guadalupe and San Antonio River Basins and the San Antonio-Nueces Coastal Basin, which increases the amount of water authorized to be stored, taken, or diverted as described in §298.10 of this title (relating to Applicability), shall not cause or contribute to an impairment of the inflow regimes as described in the figures in this subsection. Impairment of the inflow regime shall be evaluated as part of the water availability determination for a new water right or amendment that is subject to this subchapter. For purposes of this subsection, impairment would occur if the application, when considered in combination with any authorizations subject to this subchapter, which were issued prior to this application, would impair the modeled permitting frequency of any inflow regime by more than 10%.

(1) Bay and Estuary Freshwater Inflow Standards for the San Antonio Bay System for the Spring Season.

Figure: 30 TAC §298.380(a)(1)

Bay and Estuary Freshwater Inflow Standards for the San Antonio Bay System for the Spring Season

Inflow Regime	**Inflow Quantity (February) (af)**	**Inflow Quantity (March-May) (af)**	**Strategy Target Frequency**
Spring 1	N/A	550,000-925,000	at least 12% of the years
Spring 2	N/A	375,000-550,000	at least 12% of the years
Spring 3	N/A	275,000-375,000	N/A
Spring 4	greater than 75,000	150,000-275,000	N/A
Spring 5	less than 75,000	150,000-275,000	N/A
Spring 6	N/A	0-150,000	no more than 9% of the years
Spring 2 and Spring 3 combined	N/A	N/A	at least 17% of the years
Spring 4 and Spring 5 combined	N/A	N/A	less than 67% of the total

(2) Bay and Estuary Freshwater Inflow Standards for the San Antonio Bay System for the Summer Season.

Figure: 30 TAC §298.380(a)(2)

Bay and Estuary Freshwater Inflow Standards for the San Antonio Bay System for the Summer Season

Inflow Regime	**Inflow Quantity (June)**	**Inflow Quantity (July-September)**	**Strategy Target Frequency**

	(af)	(af)	
Summer 1	N/A	450,000-800,000	at least 12% of the years
Summer 2	N/A	275,000-450,000	at least 17% of the years
Summer 3	N/A	170,000-275,000	N/A
Summer 4	greater than 40,000	75,000-170,000	N/A
Summer 5	less than 40,000	75,000-170,000	N/A
Summer 6	N/A	50,000-75,000	N/A
Summer 7	N/A	0-50,000	no more than 6% of the years
Summer 2 and Summer 3 combined	N/A	N/A	at least 30% of the years
Summer 4 and Summer 5 combined	N/A	N/A	Summer 5 no more than 17% of the total
Summer 6 and Summer 7 combined	N/A	N/A	no more than 9% of the years

af=acre feet

(3) Bay and Estuary Freshwater Inflow Standards for Mission and Aransas Bays for the Summer Season.

Figure: 30 TAC §298.380(a)(3)

Bay and Estuary Freshwater Inflow Standards for Mission and Aransas Bays for the Summer Season

Inflow Regime	Inflow Quantity (February)	Inflow Quantity (March-May)	Strategy Target Frequency

	(af)	**(af)**	
Summer 1	N/A	500,000-1,000,000	at least 2% of the years

af=acre feet

(b) To the extent that strategies are implemented through a water rights permit or amendment to meet the freshwater inflow standards for San Antonio, Mission, Aransas, and Copano Bays, a water right application in the Guadalupe and San Antonio River Basins and the San Antonio-Nueces Coastal Basin, which increases the amount of water authorized to be stored, taken or diverted as described in §298.10 of this title, shall not reduce the modeled permitting frequency for any inflow regime level, listed in Figure: 30 TAC §298.380(a)(1), Figure: 30 TAC §298.380(a)(2), and Figure: 30 TAC §298.380(a)(3), below the level that would occur with the permitted strategy or strategies in place.

(c) The following environmental flow standards are established for the following described measurement points:

(1) Guadalupe River at Comfort, Texas, generally described as United States Geological Survey (USGS) gage 08167000, and more particularly described as Latitude 29 degrees, 57 minutes, 86 seconds; Longitude 98 degrees, 53 minutes, 49.80 seconds.

Figure: 30 TAC §298.380(c)(1)

United States Geological Survey Gage 08167000, Guadalupe River at Comfort

Season	Subsistence	Base	Pulse
Winter	31 cfs	77 cfs	2 per season Trigger: 140 cfs Volume: 1,030 af Duration: 11 days
Spring	18 cfs	69 cfs	2 per season Trigger: 400 cfs Volume: 2,980 af Duration: 17 days
Summer	2 cfs	50 cfs	2 per season Trigger: 160 cfs Volume: 1,130 af Duration: 12 days
Fall	25 cfs	77 cfs	2 per season Trigger: 160 cfs Volume: 1,110 af Duration: 13 days

cfs = cubic feet per second
af = acre-feet

(2) Guadalupe River near Spring Branch, Texas, generally described as USGS gage 08167500, and more particularly described as Latitude 29 degrees, 51 minutes, 37 seconds; Longitude 98 degrees, 23 minutes, 00 seconds.

Figure: 30 TAC §298.380(c)(2)

United States Geological Survey Gage 08167500, Guadalupe River near Spring Branch

Season	Subsistence	Base	Pulse
Winter	18 cfs	100 cfs	2 per season Trigger: 210 cfs Volume: 1,520 af

			Duration: 11 days
Spring	18 cfs	91 cfs	2 per season Trigger: 870 cfs Volume: 6,500 af Duration: 19 days
Summer	18 cfs	64 cfs	2 per season Trigger: 240 cfs Volume: 1,520 af Duration: 11 days
Fall	18 cfs	100 cfs	2 per season Trigger: 230 cfs Volume: 1,660 af Duration: 12 days

cfs = cubic feet per second
af = acre-feet

(3) Blanco River at Wimberley, Texas, generally described as USGS gage 08171000, and more particularly described as Latitude 29 degrees, 59 minutes, 39 seconds; Longitude 98 degrees, 05 minutes, 19 seconds.

Figure: 30 TAC §298.380(c)(3)

United States Geological Survey Gage 08171000, Blanco River at Wimberley

Season	Subsistence	Base	Pulse
Winter	10 cfs	34 cfs	2 per season Trigger: 54 cfs Volume: 360 af Duration: 10 days
Spring	13 cfs	40 cfs	2 per season Trigger: 360 cfs Volume: 2,370 af Duration: 18 days
Summer	8 cfs	36 cfs	2 per season Trigger: 74 cfs Volume: 410 af Duration: 9 days

Fall	10 cfs	36 cfs	2 per season Trigger: 82 cfs Volume: 500 af Duration: 10 days

cfs = cubic feet per second
af = acre-feet

(4) San Marcos River at Luling, Texas, generally described as USGS gage 08172000, and more particularly described as Latitude 29 degrees, 39 minutes, 58 seconds; Longitude 97 degrees, 39 minutes, 02 seconds.

Figure: 30 TAC §298.380(c)(4)

United States Geological Survey Gage 08172000, San Marcos River at Luling

Season	Subsistence	Base	Pulse
Winter	89 cfs	160 cfs	2 per season Trigger: 340 cfs Volume: 1,800 af Duration: 8 days
Spring	89 cfs	160 cfs	2 per season Trigger: 1,140 cfs Volume: 6,800 af Duration: 14 days
Summer	73 cfs	170 cfs	2 per season Trigger: 240 cfs Volume: 1,090 af Duration: 6 days
Fall	81 cfs	170 cfs	2 per season Trigger: 540 cfs Volume: 2,740 af Duration: 9 days

cfs = cubic feet per second
af = acre-feet

(5) Plum Creek near Luling, Texas generally described as USGS gage 08173000, and more particularly described as Latitude 29 degrees, 41 minutes, 58 seconds; Longitude 97 degrees, 36 minutes, 12 seconds.

Figure: 30 TAC §298.380(c)(5)

United States Geological Survey Gage 08173000, Plum Creek near Luling

Season	Subsistence	Base	Pulse
Winter	3 cfs	8 cfs	2 per season Trigger: 350 cfs Volume: 1,800 af Duration: 17 days
Spring	2 cfs	6 cfs	2 per season Trigger: 720 cfs Volume: 3,300 af Duration: 17 days
Summer	1 cfs	3 cfs	2 per season Trigger: 48 cfs Volume: 230 af Duration: 10 days
Fall	1 cfs	5 cfs	2 per season Trigger: 150 cfs Volume: 720 af Duration: 13 days

cfs = cubic feet per second
af = acre-feet

(6) Guadalupe River at Gonzales, Texas, generally described as USGS gage 08173900, and more particularly described as Latitude 29 degrees, 29 minutes, 03 seconds; Longitude 97 degrees, 27 minutes, 00 seconds.

Figure: 30 TAC §298.380(c)(6)

United States Geological Survey Gage 08173900, Guadalupe River at Gonzales

Season	Subsistence	Base	Pulse
Winter	210 cfs	796 cfs	2 per season Trigger: 1,150 cfs Volume: 9,640 af Duration: 13 days
Spring	210 cfs	791 cfs	2 per season Trigger: 3,250 cfs Volume: 26,900 af Duration: 17 days
Summer	210 cfs	727 cfs	2 per season Trigger: 1,760 cfs Volume: 14,800 af Duration: 14 days
Fall	180 cfs	746 cfs	2 per season Trigger: 1,410 cfs Volume: 11,400 af Duration: 13 days

cfs = cubic feet per second
af = acre-feet

(7) Sandies Creek near Westhoff, Texas, generally described as USGS gage 08175000, and more particularly described as Latitude 29 degrees, 12 minutes, 54 seconds; Longitude 97 degrees, 26 minutes, 57 seconds.

Figure: 30 TAC §298.380(c)(7)

United States Geological Survey Gage 08175000, Sandies Creek near Westhoff

Season	Subsistence	Base	Pulse
Winter	4 cfs	10 cfs	2 per season Trigger: 300 cfs Volume: 1,880 af Duration: 16 days

Spring	1 cfs	6 cfs	2 per season Trigger: 440 cfs Volume: 2,710 af Duration: 18 days
Summer	1 cfs	3 cfs	2 per season Trigger: 59 cfs Volume: 330 af Duration: 11 days
Fall	2 cfs	6 cfs	2 per season Trigger: 150 cfs Volume: 960 af Duration: 14 days

cfs = cubic feet per second
af = acre-feet

(8) Guadalupe River at Cuero, Texas, generally described as USGS gage 08175800, and more particularly described as Latitude 29 degrees, 05 minutes, 25 seconds; Longitude 97 degrees, 19 minutes, 46 seconds.

Figure: 30 TAC §298.380(c)(8)

United States Geological Survey Gage 08175800, Guadalupe River at Cuero

Season	**Subsistence**	**Base**	**Pulse**
Winter	130 cfs	980 cfs	2 per season Trigger: 1,610 cfs Volume: 14,100 af Duration: 13 days
Spring	120 cfs	940 cfs	2 per season Trigger: 3,370 cfs Volume: 31,800 af Duration: 18 days
Summer	130 cfs	800 cfs	2 per season Trigger: 2,110 cfs Volume: 19,300 af Duration: 17 days

Fall	86 cfs	870 cfs	2 per season Trigger: 1,730 cfs Volume: 14,100 af Duration: 13 days

cfs = cubic feet per second
af = acre-feet

(9) Guadalupe River at Victoria, Texas, generally described as USGS gage 08176500, and more particularly described as Latitude 28 degrees, 47 minutes, 34 seconds; Longitude 97 degrees, 00 minutes, 46 seconds.

Figure: 30 TAC §298.380(c)(9)

United States Geological Survey Gage 08176500, Guadalupe River at Victoria

Season	Subsistence	Base	Pulse
Winter	160 cfs	975 cfs	2 per season Trigger: 1,690 cfs Volume: 14,400 af Duration: 13 days
Spring	130 cfs	945 cfs	2 per season Trigger: 3,300 cfs Volume: 33,000 af Duration: 18 days
Summer	150 cfs	795 cfs	2 per season Trigger: 2,060 cfs Volume: 19,200 af Duration: 16 days
Fall	110 cfs	865 cfs	2 per season Trigger: 1,880 cfs Volume: 15,600 af Duration: 13 days

cfs = cubic feet per second
af = acre-feet

(10) Medina River at Bandera, Texas, generally described as USGS gage 08178880, and more particularly described as Latitude 29 degrees, 43 minutes, 25 seconds; Longitude 99 degrees, 04 minutes, 11 seconds.

Figure: 30 TAC §298.380(c)(10)

United States Geological Survey Gage 08178880, Medina River at Bandera

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**
Winter	Dry	6 cfs	17 cfs	Trigger: 53 cfs Volume: 400 af Duration: 12 days	Trigger: 110 cfs Volume: 960 af Duration: 17 days
Winter	Average	N/A	32 cfs		
Winter	Wet	N/A	54 cfs		
Spring	Dry	7 cfs	10 cfs	Trigger: 110 cfs Volume: 900 af Duration: 17 days	Trigger: 480 cfs Volume: 4,190 af Duration: 28 days
Spring	Average	N/A	22 cfs		
Spring	Wet	N/A	48 cfs		
Summer	Dry	1 cfs	6 cfs	Trigger: 94 cfs Volume: 670 af Duration: 14 days	Trigger: 340 cfs Volume: 2,310 af Duration: 21 days
Summer	Average	N/A	16 cfs		
Summer	Wet	N/A	41 cfs		
Fall	Dry	2 cfs	16 cfs	Trigger: 68 cfs Volume: 500 af Duration: 14 days	Trigger: 220 cfs Volume: 1,930 af Duration: 24 days
Fall	Average	N/A	33 cfs		
Fall	Wet	N/A	49 cfs		

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(11) Medina River at San Antonio, Texas, generally described as USGS gage 08181500, and more particularly described as Latitude 29 degrees, 15 minutes, 50 seconds; Longitude 98 degrees, 29 minutes, 26 seconds.

Figure: 30 TAC §298.380(c)(11)

United States Geological Survey Gage 08181500, Medina River at San Antonio

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (2 per season)**	**Large Seasonal Pulse (1 per season)**
Winter	Dry	14 cfs	20 cfs	Trigger: 120 cfs Volume: 970 af Duration: 15 days	Trigger: 350 cfs Volume: 3,570 af Duration: 27 days
Winter	Average	N/A	53 cfs		
Winter	Wet	N/A	71 cfs		
Spring	Dry	12 cfs	37 cfs	Trigger: 380 cfs Volume: 2,680 af Duration: 17 days	Trigger: 1,000 cfs Volume: 7,950 af Duration: 27 days
Spring	Average	N/A	62 cfs		
Spring	Wet	N/A	77 cfs		
Summer	Dry	8 cfs	33 cfs	Trigger: 140 cfs Volume: 860 af Duration: 12 days	Trigger: 440 cfs Volume: 3,050 af Duration: 21 days
Summer	Average	N/A	57 cfs		
Summer	Wet	N/A	72 cfs		
Fall	Dry	13 cfs	27 cfs	Trigger: 130 cfs	Trigger: 450 cfs

Fall	Average	N/A	60 cfs	Volume: 930 af Duration: 14 days	Volume: 3,890 af Duration: 28 days
Fall	Wet	N/A	74 cfs		

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(12) San Antonio River near Elmendorf, Texas, generally described as USGS gage 08181800, and more particularly described as Latitude 29 degrees, 13 minutes, 19 seconds; Longitude 98 degrees, 21 minutes, 20 seconds.

(A) United States Geological Survey Gage 08181800, San Antonio River near Elmendorf: Subsistence Flows, Base Flows, and Small Seasonal Pulses.

Figure: 30 TAC §298.380(c)(12)(A)

United States Geological Survey Gage 08181800, San Antonio River near Elmendorf: Subsistence Flows, Base Flows, and Small Seasonal Pulses

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (1 per season)**
Winter	Dry	60 cfs	115 cfs	Trigger: 830 cfs Volume: 6,210 af Duration: 14 days
Winter	Average	N/A	262 cfs	
Winter	Wet	N/A	328 cfs	
Spring	Dry	60 cfs	106 cfs	Trigger: 1,560 cfs Volume: 10,700 af Duration: 16 days
Spring	Average	N/A	237 cfs	
Spring	Wet	N/A	364 cfs	
Summer	Dry	60 cfs	87 cfs	Trigger: 1,110 cfs

Summer	Average	N/A	178 cfs	Volume: 6,460 af Duration: 12 days
Summer	Wet	N/A	341 cfs	
Fall	Dry	60 cfs	92 cfs	Trigger: 1,010 cfs Volume: 6,570 af Duration: 13 days
Fall	Average	N/A	223 cfs	
Fall	Wet	N/A	367 cfs	

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(B) United States Geological Survey Gage 08181800, San Antonio River near Elmendorf: Large Pulses.

Figure: 30 TAC §298.380(c)(12)(B)

United States Geological Survey Gage 08181800, San Antonio River near Elmendorf: Large Pulses

Time Period	Frequency	Trigger	Duration
April through June	3 per time period	3,000 cfs	2 days
May through June	2 per time period	4,000 cfs	2 days
July through November	2 per time period	4,000 cfs	2 days

cfs = cubic feet per second

(13) San Antonio River near Falls City, Texas, generally described as USGS gage 08183500, and more particularly described as Latitude 28 degrees, 57 minutes, 05 seconds; Longitude 98 degrees, 03 minutes, 50 seconds.

(A) United States Geological Survey Gage 08183500, San Antonio River near Falls City: Subsistence Flows, Base Flows, and Small Seasonal Pulses.

Figure: 30 TAC §298.380(c)(13)(A)

United States Geological Survey Gage 08183500, San Antonio River near Falls City: Subsistence Flows, Base Flows, and Small Seasonal Pulses

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse (1 per season)**
Winter	Dry	60 cfs	152 cfs	Trigger: 830 cfs Volume: 6,330 af Duration: 16 days
Winter	Average	N/A	292 cfs	
Winter	Wet	N/A	424 cfs	
Spring	Dry	60 cfs	137 cfs	Trigger: 1,670 cfs Volume: 12,300 af Duration: 19 days
Spring	Average	N/A	264 cfs	
Spring	Wet	N/A	467 cfs	
Summer	Dry	60 cfs	113 cfs	Trigger: 1,030 cfs Volume: 6,440 af Duration: 14 days
Summer	Average	N/A	199 cfs	
Summer	Wet	N/A	430 cfs	
Fall	Dry	60 cfs	117 cfs	Trigger: 850 cfs Volume: 5,690 af Duration: 14 days
Fall	Average	N/A	246 cfs	
Fall	Wet	N/A	479 cfs	

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(B) United States Geological Survey Gage 08183500, San Antonio River near Falls City: Large Pulses.

Figure: 30 TAC §298.380(c)(13)(B)

United States Geological Survey Gage 08183500, San Antonio River near Falls City: Large Pulses

Time Period	Frequency	Trigger	Duration
April through June	3 per time period	4,000 cfs	2 days
February through April	2 per time period	4,000 cfs	2 days
July through November	2 per time period	6,500 cfs	2 days

cfs = cubic feet per second

(14) Cibolo Creek near Falls City, Texas, generally described as USGS gage 08186000, and more particularly described as Latitude 29 degrees, 00 minutes, 50 seconds; Longitude 97 degrees, 55 minutes, 48 seconds.

(A) United States Geological Survey Gage 08186000, Cibolo Creek near Falls CitySubsistence Flows, Base Flows, and Small Seasonal Pulses.

Figure: 30 TAC §298.380(c)(14)(A)

United States Geological Survey Gage 08186000, Cibolo Creek near Falls City
Subsistence Flows, Base Flows, and Small Seasonal Pulses

Season	Hydrologic Condition	Subsistence	Base	Small Seasonal Pulse
Winter	Dry	8 cfs	20 cfs	Trigger: 570 cfs Volume: 3,200 af Duration: 20 days Frequency: 1 per season
Winter	Average	N/A	28 cfs	
Winter	Wet	N/A	39 cfs	
Spring	Dry	8 cfs	16 cfs	N/A

Spring	Average	N/A	28 cfs	
Spring	Wet	N/A	44 cfs	
Summer	Dry	8 cfs	11 cfs	Trigger: 390 cfs Volume: 1,990 af Duration: 15 days Frequency: 1 per season
Summer	Average	N/A	20 cfs	
Summer	Wet	N/A	37 cfs	
Fall	Dry	8 cfs	13 cfs	Trigger: 190 cfs Volume: 1,000 af Duration: 13 days Frequency: 2 per season
Fall	Average	N/A	24 cfs	
Fall	Wet	N/A	40 cfs	

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(B) United States Geological Survey Gage 08186000, Cibolo Creek near Falls City: Large Pulses.

Figure: 30 TAC §298.380(c)(14)(B)

United States Geological Survey Gage 08186000, Cibolo Creek near Falls City: Large Pulses

Time Period	Frequency	Trigger	Duration
April through June	3 per time period	1,000 cfs	2 days
July through October	2 per time period	1,000 cfs	2 days
July through November	2 per time period	2,500 cfs	2 days

cfs = cubic feet per second

(15) San Antonio River at Goliad, Texas, generally described as USGS gage 08188500, and more particularly described as Latitude 28 degrees, 38 minutes, 57.43 seconds; Longitude 97 degrees, 23 minutes, 05.49 seconds.

(A) United States Geological Survey Gage 08188500, San Antonio River at Goliad: Subsistence Flows, Base Flows, and Small Seasonal Pulses.

Figure: 30 TAC §298.380(c)(15)(A)

United States Geological Survey Gage 08188500, San Antonio River at Goliad: Subsistence Flows, Base Flows, and Small Seasonal Pulses

Season	**Hydrologic Condition**	**Subsistence**	**Base**	**Small Seasonal Pulse**
Winter	Dry	60 cfs	200 cfs	Trigger: 1,520 cfs Volume: 12,800 af Duration: 19 days Frequency: 1 per season
Winter	Average	N/A	329 cfs	
Winter	Wet	N/A	469 cfs	
Spring	Dry	60 cfs	174 cfs	Trigger: 1,570 cfs Volume: 11,300 af Duration: 16 days Frequency: 2 per season
Spring	Average	N/A	313 cfs	
Spring	Wet	N/A	502 cfs	
Summer	Dry	60 cfs	139 cfs	Trigger: 1,640 cfs Volume: 11,200 af Duration: 16 days Frequency: 1 per season
Summer	Average	N/A	237 cfs	
Summer	Wet	N/A	481 cfs	
Fall	Dry	60 cfs	367 cfs	Trigger: 2,320 cfs Volume: 17,600 af Duration: 19 days Frequency: 1 per season
Fall	Average	N/A	280 cfs	
Fall	Wet	N/A	584 cfs	

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

(B) United States Geological Survey Gage 08188500, San Antonio River at Goliad: Large Pulses.

Figure: 30 TAC §298.380(c)(15)(B)

United States Geological Survey Gage 08188500, San Antonio River at Goliad: Large Pulses

Time Period	Frequency	Trigger	Duration
April through June	3 per time period	4,000 cfs	2 days
February through April	2 per time period	4,000 cfs	2 days
July through November	2 per time period	8,000 cfs	2 days

cfs = cubic feet per second

(16) Mission River at Refugio, Texas, generally described as USGS gage 08189500, and more particularly described as Latitude 28 degrees, 17 minutes, 30 seconds; Longitude 97 degrees, 16 minutes, 44 seconds.

Figure: 30 TAC §298.380(c)(16)

United States Geological Survey Gage 08189500, Mission River at Refugio

Season	Hydrologic Condition	Subsistence	Base	Small Seasonal	Large Seasonal

				Pulse (2 per season)	**Pulse (1 per season)**
Winter	Dry	3 cfs	5 cfs	Trigger: 60 cfs Volume: 310 af Duration: 8 days	Trigger: 450 cfs Volume: 2,340 af Duration: 15 days
Winter	Average	N/A	9 cfs		
Winter	Wet	N/A	15 cfs		
Spring	Dry	2 cfs	5 cfs	Trigger: 320 cfs Volume: 1,440 af Duration: 10 days	Trigger: 1,560 cfs Volume: 7,910 af Duration: 18 days
Spring	Average	N/A	8 cfs		
Spring	Wet	N/A	14 cfs		
Summer	Dry	1 cfs	4 cfs	Trigger: 57 cfs Volume: 240 af Duration: 6 days	Trigger: 420 cfs Volume: 2,010 af Duration: 12 days
Summer	Average	N/A	7 cfs		
Summer	Wet	N/A	12 cfs		
Fall	Dry	2 cfs	5 cfs	Trigger: 45 cfs Volume: 200 af Duration: 6 days	Trigger: 410 cfs Volume: 2,090 af Duration: 14 days
Fall	Average	N/A	8 cfs		
Fall	Wet	N/A	15 cfs		

cfs = cubic feet per second
af = acre-feet
N/A = not applicable

§298.385. Water Right Permit Conditions.

(a) For water right permits with an authorization to store or divert water in the Guadalupe and San Antonio River Basins and the San Antonio-Nueces Coastal Basin, to

which the environmental flow standards apply, that are issued after the effective date of this subchapter, the water right permit or amendment shall contain flow restriction special conditions that are adequate to protect the environmental flow standards of this subchapter.

(b) For water right permits with an authorization to divert water in the Guadalupe and San Antonio River Basins and the San Antonio-Nueces Coastal Basin at a rate less than 20% of the pulse trigger level requirements of an applicable high flow pulse at a measurement point, as described in §298.380(c) of this title (relating to Environmental Flow Standards), and to which the environmental flow standards apply, that are issued after the effective date of this subchapter, the water right permit or amendment shall contain flow restriction special conditions that are adequate to protect the environmental flow standards of this subchapter; however, no special conditions are necessary to preserve or pass that applicable high flow pulse.

§298.390. Schedule for Revision of Standards.

The environmental flow standards or environmental flow set-asides adopted herein for the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, Mission, Copano, Aransas, and San Antonio Bays, and the associated estuaries may be revised by the commission through the rulemaking process. The final

revised rules shall be effective no sooner than ten years from the effective date of this rule, unless the Guadalupe, San Antonio, Mission, and Aransas Basin and Bay Area Stakeholder Committee submits a work plan approved by the advisory group under Texas Water Code, §11.02362(p), that provides for a periodic review to occur more frequently. The rulemaking process shall include participation by a balanced representation of stakeholders having interests in the Guadalupe, San Antonio, Mission, and Aransas Rivers, their associated tributaries, Mission, Copano, Aransas, and San Antonio Bays.

H.B. No. 3

AN ACT

relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows, and to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. MANAGEMENT OF STATE WATER

SECTION 1.01. The heading to Section 5.506, Water Code, is amended to read as follows:

Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION RELATING TO<u>, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR,</u> BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND INSTREAM USES.

SECTION 1.02. Section 5.506, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

<u>(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.</u>

(b) The commission must give written notice of the proposed

action [~~suspension~~] to the Parks and Wildlife Department before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) [~~this section~~]. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action [~~suspension~~] for a period of 72 hours from receipt of the notice and must consider those comments before issuing an order implementing the proposed action [~~imposing the suspension~~].

(c) The commission may suspend a permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) [~~this section~~] without notice except as required by Subsection (b).

SECTION 1.03. Section 5.701(j), Water Code, is amended to read as follows:

(j) The fee for other uses of water not specifically named in this section is $1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution. A fee is not required for a water right that is [~~This fee is waived for applications for instream-use water rights~~] deposited into the Texas Water Trust.

SECTION 1.04. Section 11.002, Water Code, is amended by adding Subdivisions (15), (16), (17), (18), and (19) to read as follows:

(15) "Environmental flow analysis" means the application of a scientifically derived process for predicting the response of an ecosystem to changes in instream flows or freshwater

inflows.

(16) "Environmental flow regime" means a schedule of flow quantities that reflects seasonal and yearly fluctuations that typically would vary geographically, by specific location in a watershed, and that are shown to be adequate to support a sound ecological environment and to maintain the productivity, extent, and persistence of key aquatic habitats in and along the affected water bodies.

(17) "Environmental flow standards" means those requirements adopted by the commission under Section 11.1471.

(18) "Advisory group" means the environmental flows advisory group.

(19) "Science advisory committee" means the Texas environmental flows science advisory committee.

SECTION 1.05. Section 11.023(a), Water Code, is amended to read as follows:

(a) To the extent that state water has not been set aside by the commission under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs, state [~~State~~] water may be appropriated, stored, or diverted for:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) mining and recovery of minerals;

(4) hydroelectric power;

(5) navigation;

(6) recreation and pleasure;

(7) public parks; and

(8) game preserves.

SECTION 1.06. Section 11.0235, Water Code, is amended by amending Subsections (c) and (e) and adding Subsections (d-1) through (d-6) and (f) to read as follows:

(c) The legislature has expressly required the commission while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, and bay and estuary systems in the commission's regular granting of permits for the use of state waters. As an essential part of the state's environmental flows policy, all permit conditions relating to freshwater inflows to affected bays and estuaries and instream flow needs must be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-1) The legislature has determined that existing water rights that are converted to water rights for environmental purposes should be enforced in a manner consistent with the enforcement of water rights for other purposes as provided by the laws of this state governing the appropriation of state water.

(d-2) The legislature finds that to provide certainty in water management and development and to provide adequate protection of the state's streams, rivers, and bays and estuaries, the state

must have a process with specific timelines for prompt action to address environmental flow issues in the state's major basin and bay systems, especially those systems in which unappropriated water is still available.

(d-3) The legislature finds that:

(1) in those basins in which water is available for appropriation, the commission should establish an environmental set-aside below which water should not be available for appropriation; and

(2) in those basins in which the unappropriated water that will be set aside for instream flow and freshwater inflow protection is not sufficient to fully satisfy the environmental flow standards established by the commission, a variety of market approaches, both public and private, for filling the gap must be explored and pursued.

(d-4) The legislature finds that while the state has pioneered tools to address freshwater inflow needs for bays and estuaries, there are limitations to those tools in light of both scientific and public policy evolution. To fully address bay and estuary environmental flow issues, the foundation of work accomplished by the state should be improved. While the state's instream flow studies program appears to encompass a comprehensive and scientific approach for establishing a process to assess instream flow needs for rivers and streams across the state, more extensive review and examination of the details of the program, which may not be fully developed until the program is under way, are needed to ensure an effective tool for evaluating riverine

environmental flow conditions.

(d-5) The legislature finds that the management of water to meet instream flow and freshwater inflow needs should be evaluated on a regular basis and adapted to reflect both improvements in science related to environmental flows and future changes in projected human needs for water. In addition, the development of management strategies for addressing environmental flow needs should be an ongoing, adaptive process that considers and addresses local issues.

(d-6) The legislature finds that recommendations for state action to protect instream flows and freshwater inflows should be developed through a consensus-based, regional approach involving balanced representation of stakeholders and that such a process should be encouraged throughout the state.

(e) The fact that greater pressures and demands are being placed on the water resources of the state makes it of paramount importance to ensure [~~reexamine the process for ensuring~~] that these important priorities are effectively addressed by detailing how environmental flow standards are to be developed using the environmental studies that have been and are to be performed by the state and others and specifying in clear delegations of authority how those environmental flow standards will be integrated into the regional water planning and water permitting process [~~to the commission~~].

(f) The legislature recognizes that effective implementation of the approach provided by this chapter for protecting instream flows and freshwater inflows will require more

effective water rights administration and enforcement systems than are currently available in most areas of the state.

SECTION 1.07. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read as follows:

Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state there is created the environmental flows advisory group.

(b) The advisory group is composed of nine members as follows:

(1) three members appointed by the governor;

(2) three members of the senate appointed by the lieutenant governor; and

(3) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) Of the members appointed under Subsection (b)(1):

(1) one member must be a member of the commission;

(2) one member must be a member of the board; and

(3) one member must be a member of the Parks and Wildlife Commission.

(d) Each member of the advisory group serves at the will of the person who appointed the member.

(e) The appointed senator with the most seniority and the appointed house member with the most seniority serve together as co-presiding officers of the advisory group.

(f) A member of the advisory group is not entitled to receive compensation for service on the advisory group but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory group, as provided by the General Appropriations Act.

(g) The advisory group may accept gifts and grants from any source to be used to carry out a function of the advisory group.

(h) The commission shall provide staff support for the advisory group.

(i) The advisory group shall conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the advisory group determines have importance and relevance to the protection of environmental flows. In evaluating the options for providing adequate environmental flows, the advisory group shall take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our public and private lands, streams and rivers, and bay and estuary systems and are high priorities in the water management process. The advisory group shall specifically address:

(1) ways that the ecological soundness of those systems will be ensured in the water rights administration and

enforcement and water allocation processes; and

(2) appropriate methods to encourage persons voluntarily to convert reasonable amounts of existing water rights to use for environmental flow protection temporarily or permanently.

(j) The advisory group may adopt rules, procedures, and policies as needed to administer this section, to implement its responsibilities, and to exercise its authority under Sections 11.02361 and 11.02362.

(k) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory group.

(l) Not later than December 1, 2008, and every two years thereafter, the advisory group shall issue and promptly deliver to the governor, lieutenant governor, and speaker of the house of representatives copies of a report summarizing:

(1) any hearings conducted by the advisory group;

(2) any studies conducted by the advisory group;

(3) any legislation proposed by the advisory group;

(4) progress made in implementing Sections 11.02361 and 11.02362; and

(5) any other findings and recommendations of the advisory group.

(m) The advisory group is abolished on the date that the commission has adopted environmental flow standards under Section 11.1471 for all of the river basin and bay systems in this state.

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY COMMITTEE. (a) The Texas environmental flows science advisory

committee consists of at least five but not more than nine members appointed by the advisory group.

(b) The advisory group shall appoint to the science advisory committee persons who will provide an objective perspective and diverse technical expertise, including expertise in hydrology, hydraulics, water resources, aquatic and terrestrial biology, geomorphology, geology, water quality, computer modeling, and other technical areas pertinent to the evaluation of environmental flows.

(c) Members of the science advisory committee serve five-year terms expiring March 1. A vacancy on the science advisory committee is filled by appointment by the co-presiding officers of the advisory group for the unexpired term.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the science advisory committee.

(e) The science advisory committee shall:

(1) serve as an objective scientific body to advise and make recommendations to the advisory group on issues relating to the science of environmental flow protection; and

(2) develop recommendations to help provide overall direction, coordination, and consistency relating to:

(A) environmental flow methodologies for bay and estuary studies and instream flow studies;

(B) environmental flow programs at the commission, the Parks and Wildlife Department, and the board; and

(C) the work of the basin and bay expert science teams described in Section 11.02362.

(f) To assist the advisory group to assess the extent to which the recommendations of the science advisory committee are considered and implemented, the commission, the Parks and Wildlife Department, and the board shall provide written reports to the advisory group, at intervals determined by the advisory group, that describe:

(1) the actions taken by each agency in response to each recommendation; and

(2) for each recommendation not implemented, the reason it was not implemented.

(g) The science advisory committee is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (a) For the purposes of this section, the advisory group, not later than November 1, 2007, shall define the geographical extent of each river basin and bay system in this state for the sole purpose of developing environmental flow regime recommendations under this section and adoption of environmental flow standards under Section 11.1471.

(b) The advisory group shall give priority in descending order to the following river basin and bay systems of the state for the purpose of developing environmental flow regime recommendations and adopting environmental flow standards:

(1) the river basin and bay system consisting of the Trinity and San Jacinto Rivers and Galveston Bay and the river basin and bay system consisting of the Sabine and Neches Rivers and Sabine Lake Bay;

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays; and

(3) the river basin and bay system consisting of the Nueces River and Corpus Christi and Baffin Bays, the river basin and bay system consisting of the Rio Grande, the Rio Grande estuary, and the Lower Laguna Madre, and the Brazos River and its associated bay and estuary system.

(c) For the river basin and bay systems listed in Subsection (b)(1):

(1) the advisory group shall appoint the basin and bay area stakeholders committee not later than November 1, 2007;

(2) the basin and bay area stakeholders committee shall establish a basin and bay expert science team not later than March 1, 2008;

(3) the basin and bay expert science team shall finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and the commission not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group may extend the deadline provided by this subdivision;

(4) the basin and bay area stakeholders committee shall submit to the commission its comments on and recommendations regarding the basin and bay expert science team's recommended

environmental flow regime not later than September 1, 2009; and

(5) the commission shall adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2010.

(d) The advisory group shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2) not later than September 1, 2008, and shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. The advisory group shall establish a schedule for the performance of the tasks listed in Subsections (c)(2) through (5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by the commission as soon as is reasonably possible. Each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) shall make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. The advisory group shall consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team as well as coordinate with, and give appropriate consideration to the recommendations of, the commission, the Parks and Wildlife Department, and the board in establishing the schedule.

(e) For a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in

Subsection (b), the advisory group shall establish a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards. The advisory group shall develop the schedule in consultation with the commission, the Parks and Wildlife Department, the board, and the pertinent basin and bay area stakeholders committee and basin and bay expert science team. The advisory group may, on its own initiative or on request, modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. This subsection does not prohibit, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards, an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process.

(f) The advisory group shall appoint a basin and bay area stakeholders committee for each river basin and bay system in this state for which a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards is specified by or established under Subsection (c), (d), or (e). Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay area stakeholders committee. Each committee must consist of at least 17 members. The membership of each committee must:

(1) reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system for

which the committee is established; and

(2) be representative of appropriate stakeholders, including the following if they have a presence in the particular river basin and bay system for which the committee is established:

(A) agricultural water users, including representatives of each of the following sectors:

(i) agricultural irrigation;

(ii) free-range livestock; and

(iii) concentrated animal feeding operation;

(B) recreational water users, including coastal recreational anglers and businesses supporting water recreation;

(C) municipalities;

(D) soil and water conservation districts;

(E) industrial water users, including representatives of each of the following sectors:

(i) refining;

(ii) chemical manufacturing;

(iii) electricity generation; and

(iv) production of paper products or timber;

(F) commercial fishermen;

(G) public interest groups;

(H) regional water planning groups;

(I) groundwater conservation districts;

(J) river authorities and other conservation and reclamation districts with jurisdiction over surface water; and

(K) environmental interests.

(g) Members of a basin and bay area stakeholders committee serve five-year terms expiring March 1. If a vacancy occurs on a committee, the remaining members of the committee by majority vote shall appoint a member to serve the remainder of the unexpired term.

(h) Meetings of a basin and bay area stakeholders committee must be open to the public.

(i) Each basin and bay area stakeholders committee shall establish a basin and bay expert science team for the river basin and bay system for which the committee is established. The basin and bay expert science team must be established not later than six months after the date the basin and bay area stakeholders committee is established. Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay expert science team. Each basin and bay expert science team must be composed of technical experts with special expertise regarding the river basin and bay system or regarding the development of environmental flow regimes. A person may serve as a member of more than one basin and bay expert science team at the same time.

(j) The members of a basin and bay expert science team serve five-year terms expiring April 1. A vacancy on a basin and bay expert science team is filled by appointment by the pertinent basin and bay area stakeholders committee to serve the remainder of the unexpired term.

(k) The science advisory committee shall appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental

flow activities throughout the state. The commission, the Parks and Wildlife Department, and the board shall provide technical assistance to each basin and bay expert science team, including information about the studies conducted under Sections 16.058 and 16.059, and may serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

(l) Where reasonably practicable, meetings of a basin and bay expert science team must be open to the public.

(m) Each basin and bay expert science team shall develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. In developing the analyses and recommendations, the science team must consider all reasonably available science, without regard to the need for the water for other uses, and the science team's recommendations must be based solely on the best science available. For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.

(n) Each basin and bay expert science team shall submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and the commission in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). The basin and bay area stakeholders committee and the advisory group may not change the environmental

flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Each basin and bay area stakeholders committee shall review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision. The basin and bay area stakeholders committee shall develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to the commission and to the advisory group in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). In developing its recommendations, the basin and bay area stakeholders committee shall operate on a consensus basis to the maximum extent possible.

(p) In recognition of the importance of adaptive management, after submitting its recommendations regarding environmental flow standards and strategies to meet the

environmental flow standards to the commission, each basin and bay area stakeholders committee, with the assistance of the pertinent basin and bay expert science team, shall prepare and submit for approval by the advisory group a work plan. The work plan must:

(1) establish a periodic review of the basin and bay environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies, to occur at least once every 10 years;

(2) prescribe specific monitoring, studies, and activities; and

(3) establish a schedule for continuing the validation or refinement of the basin and bay environmental flow analyses and environmental flow regime recommendations, the environmental flow standards adopted by the commission, and the strategies to achieve those standards.

(q) In accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e), the advisory group, with input from the science advisory committee, shall review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. If appropriate, the advisory group shall submit comments on the analyses and recommendations to the commission for use by the commission in adopting rules under Section 11.1471. Comments must be submitted not later than six months after the date of receipt of the analyses and recommendations.

(r) Notwithstanding the other provisions of this section, in the event the commission, by permit or order, has established an

estuary advisory council with specific duties related to implementation of permit conditions for environmental flows, that council may continue in full force and effect and shall act as and perform the duties of the basin and bay area stakeholders committee under this section. The estuary advisory council shall add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the criteria for membership established in Subsection (f) and shall operate under the provisions of this section.

(s) Each basin and bay area stakeholders committee and basin and bay expert science team is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. The commission may approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) This section does not alter the commission's obligations under Section 11.042(b) or (c), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, or 16.059.

SECTION 1.08. Section 11.082(b), Water Code, is amended to read as follows:

(b) The state may recover the penalties prescribed in Subsection (a) [~~of this section~~] by suit brought for that purpose in

a court of competent jurisdiction. The state may seek those penalties regardless of whether a watermaster has been appointed for the water division, river basin, or segment of a river basin where the unlawful use is alleged to have occurred.

SECTION 1.09. Section 11.0841, Water Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of this section, the Parks and Wildlife Department has:

(1) the rights of a holder of a water right that is held in the Texas Water Trust, including the right to file suit in a civil court to prevent the unlawful use of such a right;

(2) the right to act in the same manner that a holder of a water right may act to protect the holder's rights in seeking to prevent any person from appropriating water in violation of a set-aside established by the commission under Section 11.1471 to meet instream flow needs or freshwater inflow needs; and

(3) the right to file suit in a civil court to prevent the unlawful use of a set-aside established under Section 11.1471.

SECTION 1.10. Section 11.0842(a), Water Code, is amended to read as follows:

(a) If a person violates this chapter, a rule or order adopted under this chapter or Section 16.236 [~~of this code~~], or a permit, certified filing, or certificate of adjudication issued under this chapter, the commission may assess an administrative penalty against that person as provided by this section. The commission may assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river

basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin.

SECTION 1.11. Section 11.0843(a), Water Code, is amended to read as follows:

(a) Upon witnessing a violation of this chapter or a rule or order or a water right issued under this chapter, the executive director or a person designated by the executive director, including a watermaster or the watermaster's deputy, [~~as defined by commission rule,~~] may issue the alleged violator a field citation alleging that a violation has occurred and providing the alleged violator the option of either:

(1) without admitting to or denying the alleged violation, paying an administrative penalty in accordance with the predetermined penalty amount established under Subsection (b) [~~of this section~~] and taking remedial action as provided in the citation; or

(2) requesting a hearing on the alleged violation in accordance with Section 11.0842 [~~of this code~~].

SECTION 1.12. Section 11.134(b), Water Code, is amended to read as follows:

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply;

(3) the proposed appropriation:

(A) is intended for a beneficial use;

(B) does not impair existing water rights or vested riparian rights;

(C) is not detrimental to the public welfare;

(D) considers any applicable environmental flow standards established under Section 11.1471 and, if applicable, the assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and

(E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant approved regional water plan for any area in which the proposed appropriation is located, unless the commission determines that conditions warrant waiver of this requirement; and

(4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by [~~Subdivision (8)(B),~~] Section 11.002(8)(B) [~~11.002~~].

SECTION 1.13. Section 11.147, Water Code, is amended by amending Subsections (b), (d), and (e) and adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, the commission shall include in the permit any conditions considered necessary to maintain beneficial inflows to

any affected bay and estuary system, to the extent practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491[~~, those conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system~~].

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain existing instream uses and water quality of the stream or river to which the application applies. In determining what conditions to include in the permit under this subsection, the commission shall consider among other factors:

(1) the studies mandated by Section 16.059; and

(2) any water quality assessment performed under Section 11.150.

(e) The commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain fish and wildlife habitats. In determining what conditions to include in the permit under this subsection, the commission shall consider any assessment performed under Section 11.152.

(e-1) Any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted must include a provision allowing the commission to adjust the conditions included in the permit or amended water right to provide for protection of

instream flows or freshwater inflows. With respect to an amended water right, the provision may not allow the commission to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2007. The commission shall adjust the conditions if the commission determines, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. The adjustment:

(1) in combination with any previous adjustments made under this subsection may not increase the amount of the pass-through or release requirement for the protection of instream flows or freshwater inflows by more than 12.5 percent of the annualized total of that requirement contained in the permit as issued or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right;

(2) must be based on appropriate consideration of the priority dates and diversion locations of any other water rights granted in the same river basin that are subject to adjustment under this subsection; and

(3) must be based on appropriate consideration of any voluntary contributions to the Texas Water Trust, and of any

voluntary amendments to existing water rights to change the use of a specified quantity of water to or add a use of a specified quantity of water for instream flows dedicated to environmental needs or bay and estuary inflows as authorized by Section 11.0237(a), that actually contribute toward meeting the applicable environmental flow standards.

(e-2) Any water right holder who makes a contribution or amends a water right as described by Subsection (e-1)(3) is entitled to appropriate credit for the benefits of the contribution or amendment against the adjustment of the holder's water right under Subsection (e-1).

(e-3) Notwithstanding Subsections (b)-(e), for the purpose of determining the environmental flow conditions necessary to maintain freshwater inflows to an affected bay and estuary system, existing instream uses and water quality of a stream or river, or fish and aquatic wildlife habitats, the commission shall apply any applicable environmental flow standard, including any environmental flow set-aside, adopted under Section 11.1471 instead of considering the factors specified by those subsections.

SECTION 1.14. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1471 to read as follows:

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES. (a) The commission by rule shall:

(1) adopt appropriate environmental flow standards for each river basin and bay system in this state that are adequate to support a sound ecological environment, to the maximum extent reasonable considering other public interests and other relevant

factors;

(2) establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum extent reasonable when considering human water needs; and

(3) establish procedures for implementing an adjustment of the conditions included in a permit or an amended water right as provided by Sections 11.147(e-1) and (e-2).

(b) In adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), the commission shall consider:

(1) the definition of the geographical extent of the river basin and bay system adopted by the advisory group under Section 11.02362(a) and the definition and designation of the river basin by the board under Section 16.051(c);

(2) the schedule established by the advisory group under Section 11.02362(d) or (e) for the adoption of environmental flow standards for the river basin and bay system, if applicable;

(3) the environmental flow analyses and the recommended environmental flow regime developed by the applicable basin and bay expert science team under Section 11.02362(m);

(4) the recommendations developed by the applicable basin and bay area stakeholders committee under Section 11.02362(o) regarding environmental flow standards and strategies to meet the flow standards;

(5) any comments submitted by the advisory group to the commission under Section 11.02362(q);

(6) the specific characteristics of the river basin and bay system;

(7) economic factors;

(8) the human and other competing water needs in the river basin and bay system;

(9) all reasonably available scientific information, including any scientific information provided by the science advisory committee; and

(10) any other appropriate information.

(c) Environmental flow standards adopted under Subsection (a)(1) must consist of a schedule of flow quantities, reflecting seasonal and yearly fluctuations that may vary geographically by specific location in a river basin and bay system.

(d) As provided by Section 11.023, the commission may not issue a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). A permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside must contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e) An environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande must be assigned a priority date

corresponding to the date the commission receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f) An environmental flow standard or environmental flow set-aside adopted under Subsection (a) may be altered by the commission in a rulemaking process undertaken in accordance with a schedule established by the commission. In establishing a schedule, the commission shall consider the applicable work plan approved by the advisory group under Section 11.02362(p). The commission's schedule may not provide for the rulemaking process to occur more frequently than once every 10 years unless the work plan provides for a periodic review under Section 11.02362(p) to occur more frequently than once every 10 years. In that event, the commission may provide for the rulemaking process to be undertaken in conjunction with the periodic review if the commission determines that schedule to be appropriate. A rulemaking process undertaken under this subsection must provide for the participation of stakeholders having interests in the particular river basin and bay system for which the process is undertaken.

SECTION 1.15. The heading to Section 11.148, Water Code, is amended to read as follows:

Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR

ENVIRONMENTAL FLOWS.

SECTION 1.16. Section 11.148, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) Before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) [~~of this section~~], it must give written notice to the Parks and Wildlife Department of the proposed action [~~suspension~~]. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action [~~suspension~~] within 72 hours from such time and the commission shall consider those comments before issuing its order implementing the proposed action [~~imposing the suspension~~].

(c) The commission may suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than the Parks and Wildlife Department as provided by Subsection (b) [~~of this section~~]. However, all affected persons shall be notified immediately by publication, and a hearing to determine whether the suspension should be continued shall be held within 15 days of the date on which the order to suspend is issued.

SECTION 1.17. Section 11.1491(a), Water Code, is amended to read as follows:

(a) The Parks and Wildlife Department and the commission shall have joint responsibility to review the studies prepared under Section 16.058 [~~of this code~~], to determine inflow conditions necessary for the bays and estuaries, and to provide information necessary for water resources management. Each agency shall designate an employee to share equally in the oversight of the program. Other responsibilities shall be divided between the Parks and Wildlife Department and the commission to maximize present in-house capabilities of personnel and to minimize costs to the state. Each agency shall have reasonable access to all information produced by the other agency. Publication of reports completed under this section shall be submitted for comment to [~~both~~] the commission, [~~and~~] the Parks and Wildlife Department, the advisory group, the science advisory committee, and any applicable basin and bay area stakeholders committee and basin and bay expert science team.

SECTION 1.18. Section 11.329(g), Water Code, is amended to read as follows:

(g) The commission may not assess costs under this section against a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts or against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years. [~~This subsection is not intended to affect in any way the fees assessed on a water right holder by the commission under~~

~~Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts shall be assessed fees at the same rate per acre-foot charged to a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of more than two megawatts.~~]

SECTION 1.19. Section 11.404(e), Water Code, is amended to read as follows:

(e) The court may not assess costs and expenses under this section against:

(1) a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts; or

(2) a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.20. Subchapter I, Chapter 11, Water Code, is amended by adding Section 11.4531 to read as follows:

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, the executive director shall appoint a watermaster advisory committee consisting of at least nine but not more than 15 members. A member of the advisory committee must be a holder of a water right or a representative of a holder of a water right in the river basin or

segment of the river basin for which the watermaster is appointed. In appointing members to the advisory committee, the executive director shall consider:

(1) geographic representation;

(2) amount of water rights held;

(3) different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users; and

(4) experience and knowledge of water management practices.

(b) An advisory committee member is not entitled to reimbursement of expenses or to compensation.

(c) An advisory committee member serves a two-year term expiring August 31 of each odd-numbered year and holds office until a successor is appointed.

(d) The advisory committee shall meet within 30 days after the date the initial appointments have been made and shall select a presiding officer to serve a one-year term. The committee shall meet regularly as necessary.

(e) The advisory committee shall:

(1) make recommendations to the executive director regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights in the river basin or segment of the river basin for which the watermaster is appointed;

(2) review and comment to the executive director on the annual budget of the watermaster operation; and

(3) perform other advisory duties as requested by the executive director regarding the watermaster operation or as requested by holders of water rights and considered by the committee to benefit the administration of water rights in the river basin or segment of the river basin for which the watermaster is appointed.

SECTION 1.21. Sections 11.454 and 11.455, Water Code, are amended to read as follows:

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G [~~A watermaster as the agent of the commission and under the executive director's supervision shall:~~

[~~(1) divide the water of the streams or other sources of supply of his segment or basin in accordance with the authorized water rights;~~

[~~(2) regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his segment or basin, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled; and~~

[~~(3) perform any other duties and exercise any authority directed by the commission~~].

Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER [~~ASSESSMENTS~~]. (a) Section 11.329 applies to the payment of the compensation and expenses of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the payment of the compensation and expenses of a watermaster appointed for a water division under Subchapter G.

(b) The executive director shall deposit the assessments collected under this section to the credit of the watermaster fund.

(c) Money deposited under this section to the credit of the watermaster fund may be used only for the purposes specified by Section 11.3291 with regard to the watermaster operation under this subchapter with regard to which the assessments were collected [~~The commission may assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction in accordance with Section 11.329 of this code~~].

SECTION 1.22. Subchapter F, Chapter 15, Water Code, is amended by adding Section 15.4063 to read as follows:

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may authorize the use of money in the research and planning fund:

(1) to compensate the members of the Texas environmental flows science advisory committee established under Section 11.02361 for attendance and participation at meetings of the committee and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act;

(2) for contracts with cooperating state and federal agencies and universities and with private entities as necessary to provide technical assistance to enable the Texas environmental flows science advisory committee and the basin and bay expert science teams established under Section 11.02362 to perform their statutory duties;

(3) to compensate the members of the basin and bay expert science teams established under Section 11.02362 for attendance and participation at meetings of the basin and bay expert science teams and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act; and

(4) for contracts with political subdivisions designated as representatives of basin and bay area stakeholders committees established under Section 11.02362 to fund all or part of the administrative expenses incurred in conducting meetings of the basin and bay area stakeholders committees or the pertinent basin and bay expert science teams.

SECTION 1.23. Section 16.059(d), Water Code, is amended to read as follows:

(d) The priority studies shall be completed not later than December 31, 2016 [~~2010~~]. The Parks and Wildlife Department, the commission, and the board shall establish a work plan that prioritizes the studies and that sets interim deadlines providing for publication of flow determinations for individual rivers and streams on a reasonably consistent basis throughout the prescribed study period. Before publication, completed studies shall be

submitted for comment to the commission, the board, and the Parks and Wildlife Department.

SECTION 1.24. Section 26.0135(h), Water Code, as amended by Chapters 234 and 965, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. Irrigation water rights, [~~and~~] non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that program funds are equitably apportioned among basins, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for

any efforts that duplicate water quality management activities described in Section 26.177 [~~of this chapter~~]. The rules concerning the apportionment and assessment of reasonable costs shall provide for a recovery of not more than $5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of the costs recovered annually toward the commission's overhead costs for the administration of this section and the implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

SECTION 1.25. Section 11.1491(b), Water Code, is repealed.

SECTION 1.26. (a) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the initial members of the environmental flows advisory group as provided by Section 11.0236, Water Code, as added by this article, as soon as practicable on or after the effective date of this article.

(b) As soon as practicable after taking office, the initial members of the environmental flows advisory group shall appoint the initial members of the Texas environmental flows science advisory committee as provided by Section 11.02361, Water Code, as added by this article. The terms of the initial members of the committee expire March 1, 2012.

(c) The environmental flows advisory group shall appoint the members of each basin and bay area stakeholders committee as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(d) Each basin and bay area stakeholders committee shall appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each team expire April 1 of the fifth year that begins after the year in which the initial appointments are made.

(e) The executive director of the Texas Commission on Environmental Quality shall appoint the members of the watermaster advisory committee under Section 11.4531, Water Code, as added by this article, for each river basin or segment of a river basin for which the executive director appoints a watermaster under Subchapter I, Chapter 11, Water Code. The terms of the initial members of each committee expire August 31 of the first odd-numbered year that begins after the year in which the initial appointments are made.

SECTION 1.27. The changes in law made by this article relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply only to:

(1) water appropriated under a permit for a new

appropriation of water the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date; or

(2) the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date.

ARTICLE 2. EDWARDS AQUIFER AUTHORITY

SECTION 2.01. Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) to read as follows:

(f) The authority may own, finance, design, [~~contract with a person who uses water from the aquifer for the authority or that person to~~] construct, operate, or [~~own, finance, and~~] maintain recharge [~~water supply~~] facilities. [~~Management fees or special fees may not be used for purchasing or operating these facilities.~~] For the purpose of this subsection, "recharge [~~water supply~~] facility" means [~~includes~~] a dam, reservoir, [~~treatment facility, transmission facility,~~] or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(f-1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain

recharge facilities to:

(1) each groundwater conservation district in the area in which the recharge facility will be located;

(2) the mayor of each municipality in the area in which the recharge facility will be located;

(3) the county judge of each county in the area in which the recharge facility will be located; and

(4) each member of the legislature who represents the area in which the proposed recharge facility will be located.

(f-2) Any entity within the county in which a recharge facility is to be constructed shall be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain the recharge facility.

SECTION 2.02. Sections 1.14(a), (c), (e), (f), and (h), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

(1) protect the water quality of the aquifer;

(2) protect the water quality of the surface streams to which the aquifer provides springflow;

(3) achieve water conservation;

(4) maximize the beneficial use of water available for withdrawal from the aquifer;

(5) recognize the extent of the hydro-geologic

connection and interaction between surface water and groundwater;

(6) protect aquatic and wildlife habitat;

(7) [~~(6)~~] protect species that are designated as threatened or endangered under applicable federal or state law; and

(8) [~~(7)~~] provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections [~~(d),~~] (f)[~~,~~] and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 [~~400,000~~] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [~~additional water as provided by Subsection (d) and then on an interruptible basis~~].

(f) If the level of the aquifer is equal to or greater than 660 [~~650~~] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. [~~The authority shall limit the additional withdrawals to ensure that springflows are not~~

~~affected during critical drought conditions.~~]

(h) To accomplish the purposes of this article, [~~by June 1, 1994,~~] the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased adjustments to [~~reductions in~~] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION 2.03. Section 1.16(g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or[~~,~~] cancelled[~~, or retired~~].

SECTION 2.04. Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as

follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 [~~665~~] feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION 2.05. Section 1.22(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale [~~or retirement as a means of complying with pumping reduction requirements under this article; or~~

[~~(4) retiring those rights, including those rights already permitted~~].

SECTION 2.06. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [~~The~~] authority by rule shall adopt [~~prepare and coordinate implementation of~~] a [~~plan for~~] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [~~on or before September 1, 1995~~]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [~~mechanisms~~] must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; [~~and~~]

(4) require reduction of nondiscretionary use by

permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1

CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE SAN ANTONIO POOL

Comal Springs Flow cfs	San Marcos Springs Flow cfs	Index Well J-17 Level MSL	Critical Period Stage	Withdrawal Reduction-San Antonio Pool
<225	<96	<660	I	20%
<200	<80	<650	II	30%
<150	N/A	<640	III	35%
<100	N/A	<630	IV	40%

TABLE 2

CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE UVALDE POOL

Withdrawal Reduction-Uvalde Pool	Index Well J-27 Level MSL	Critical Period Stage
N/A	---	I
5%	<850	II
20%	<845	III
35%	<842	IV

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate

of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for federally listed threatened and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of

Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

(1) listed as threatened or endangered species under federal law; and

(2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders, not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this

section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water

Development Board, and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee;

(J) Bexar County;

(K) CPS Energy; and

(L) Bexar Metropolitan Water District or its successor; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial

regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

(f) The steering committee shall work with Texas A&M

University to:

(1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

(h) Where reasonably practicable or as required by law, any meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee

shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels

for the San Marcos Springs flow for the San Antonio pool should be made.

(l) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities

designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of

the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(g) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION 2.07. Sections 1.29(b), (h), and (i), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance

its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [~~52~~], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements [~~Special fees collected under Subsection (c) or (d) of this section may not be used to finance a surface water supply reservoir project~~].

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary[~~, but not to exceed five percent of the money collected under Subsection (d) of this section,~~] to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to $75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this

article.

SECTION 2.08. Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [~~build or~~] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [~~and~~] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION 2.09. Sections 1.14(b) and (d), Section 1.21, and Sections 1.29(a), (c), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION 2.10. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

(1) the validity or implementation of this article; or

(2) the groundwater withdrawal amounts recognized in Section 2.02 of this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this article.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards

Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 2.11. The change in law made by this article applies only to a cause of action filed on or after the effective date of this article. A cause of action that is filed before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 2.12. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 3 was passed by the House on March 1, 2007, by the following vote: Yeas 142, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3 on May 28, 2007, by the following vote: Yeas 142, Nays 2, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3

I certify that H.B. No. 3 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3 on May 28, 2007, by the following vote: Yeas 30, Nays 0.

_____

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

AN ACT

relating to the development, management, and preservation of the water resources of the state; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. ENVIRONMENTAL FLOWS

SECTION 1.01. The heading to Section 5.506, Water Code, is amended to read as follows:

Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND INSTREAM USES.

SECTION 1.02. Section 5.506, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) The commission must give written notice of the proposed action [~~suspension~~] to the Parks and Wildlife Department before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) [~~this~~

~~section~~]. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action [~~suspension~~] for a period of 72 hours from receipt of the notice and must consider those comments before issuing an order implementing the proposed action [~~imposing the suspension~~].

(c) The commission may suspend a permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) [~~this section~~] without notice except as required by Subsection (b).

SECTION 1.03. Subsection (j), Section 5.701, Water Code, is amended to read as follows:

(j) The fee for other uses of water not specifically named in this section is $1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution. A fee is not required for a water right that is [~~This fee is waived for applications for instream-use water rights~~] deposited into the Texas Water Trust.

SECTION 1.04. Section 11.002, Water Code, is amended by adding Subdivisions (15), (16), (17), (18), and (19) to read as follows:

(15) "Environmental flow analysis" means the application of a scientifically derived process for predicting the response of an ecosystem to changes in instream flows or freshwater inflows.

(16) "Environmental flow regime" means a schedule of flow quantities that reflects seasonal and yearly fluctuations that

typically would vary geographically, by specific location in a watershed, and that are shown to be adequate to support a sound ecological environment and to maintain the productivity, extent, and persistence of key aquatic habitats in and along the affected water bodies.

(17) "Environmental flow standards" means those requirements adopted by the commission under Section 11.1471.

(18) "Advisory group" means the environmental flows advisory group.

(19) "Science advisory committee" means the Texas environmental flows science advisory committee.

SECTION 1.05. Subsection (a), Section 11.023, Water Code, is amended to read as follows:

(a) To the extent that state water has not been set aside by the commission under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs, state [~~State~~] water may be appropriated, stored, or diverted for:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) mining and recovery of minerals;

(4) hydroelectric power;

(5) navigation;

(6) recreation and pleasure;

(7) public parks; and

(8) game preserves.

SECTION 1.06. Section 11.0235, Water Code, is amended by amending Subsections (b), (c), and (e) and adding Subsections (d-1) through (d-6) and (f) to read as follows:

(b) Maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being. The legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.

(c) The legislature has expressly required the commission while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, and bay and estuary systems in the commission's regular granting of permits for the use of state waters. As an essential part of the state's environmental flows policy, all permit conditions relating to freshwater inflows to affected bays and estuaries and instream flow needs must be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-1) The legislature has determined that existing water rights that are amended to authorize use for environmental purposes should be enforced in a manner consistent with the enforcement of water rights for other purposes as provided by the laws of this state governing the appropriation of state water.

(d-2) The legislature finds that to provide certainty in

water management and development and to provide adequate protection of the state's streams, rivers, and bays and estuaries, the state must have a process with specific timelines for prompt action to address environmental flow issues in the state's major basin and bay systems, especially those systems in which unappropriated water is still available.

(d-3) The legislature finds that:

(1) in those basins in which water is available for appropriation, the commission should establish an environmental set-aside below which water should not be available for appropriation; and

(2) in those basins in which the unappropriated water that will be set aside for instream flow and freshwater inflow protection is not sufficient to fully satisfy the environmental flow standards established by the commission, a variety of market approaches, both public and private, for filling the gap must be explored and pursued.

(d-4) The legislature finds that while the state has pioneered tools to address freshwater inflow needs for bays and estuaries, there are limitations to those tools in light of both scientific and public policy evolution. To fully address bay and estuary environmental flow issues, the foundation of work accomplished by the state should be improved. While the state's instream flow studies program appears to encompass a comprehensive and scientific approach for establishing a process to assess instream flow needs for rivers and streams across the state, more extensive review and examination of the details of the program,

which may not be fully developed until the program is under way, are needed to ensure an effective tool for evaluating riverine environmental flow conditions.

(d-5) The legislature finds that the management of water to meet instream flow and freshwater inflow needs should be evaluated on a regular basis and adapted to reflect both improvements in science related to environmental flows and future changes in projected human needs for water. In addition, the development of management strategies for addressing environmental flow needs should be an ongoing, adaptive process that considers and addresses local issues.

(d-6) The legislature finds that recommendations for state action to protect instream flows and freshwater inflows should be developed through a consensus-based, regional approach involving balanced representation of stakeholders and that such a process should be encouraged throughout the state.

(e) The fact that greater pressures and demands are being placed on the water resources of the state makes it of paramount importance to ensure [~~reexamine the process for ensuring~~] that these important priorities are effectively addressed by detailing how environmental flow standards are to be developed using the environmental studies that have been and are to be performed by the state and others and specifying in clear delegations of authority how those environmental flow standards will be integrated into the regional water planning and water permitting process [~~to the commission~~].

(f) The legislature recognizes that effective

implementation of the approach provided by this chapter for protecting instream flows and freshwater inflows will require more effective water rights administration and enforcement systems than are currently available in most areas of the state.

SECTION 1.07. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read as follows:

Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state there is created the environmental flows advisory group.

(b) The advisory group is composed of nine members as follows:

(1) three members appointed by the governor;

(2) three members of the senate appointed by the lieutenant governor; and

(3) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) Of the members appointed under Subsection (b)(1):

(1) one member must be a member of the commission;

(2) one member must be a member of the board; and

(3) one member must be a member of the Parks and Wildlife Commission.

(d) Each member of the advisory group serves at the will of the person who appointed the member.

(e) The appointed senator with the most seniority and the

appointed house member with the most seniority serve together as co-presiding officers of the advisory group.

(f) A member of the advisory group is not entitled to receive compensation for service on the advisory group but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory group, as provided by the General Appropriations Act.

(g) The advisory group may accept gifts and grants from any source to be used to carry out a function of the advisory group.

(h) The commission shall provide staff support for the advisory group.

(i) The advisory group shall conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the advisory group determines have importance and relevance to the protection of environmental flows. In evaluating the options for providing adequate environmental flows, the advisory group shall take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our public and private lands, streams and rivers, and bay and estuary systems and are high priorities in the water management process. The advisory group shall specifically address:

(1) ways that the ecological soundness of those systems will be ensured in the water rights administration and enforcement and water allocation processes; and

(2) appropriate methods to encourage persons voluntarily to convert reasonable amounts of existing water rights to use for environmental flow protection temporarily or permanently.

(j) The advisory group may adopt rules, procedures, and policies as needed to administer this section, to implement its responsibilities, and to exercise its authority under Sections 11.02361 and 11.02362.

(k) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory group.

(l) Not later than December 1, 2008, and every two years thereafter, the advisory group shall issue and promptly deliver to the governor, lieutenant governor, and speaker of the house of representatives copies of a report summarizing:

(1) any hearings conducted by the advisory group;

(2) any studies conducted by the advisory group;

(3) any legislation proposed by the advisory group;

(4) progress made in implementing Sections 11.02361 and 11.02362; and

(5) any other findings and recommendations of the advisory group.

(m) The advisory group is abolished on the date that the commission has adopted environmental flow standards under Section 11.1471 for all of the river basin and bay systems in this state.

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY COMMITTEE. (a) The Texas environmental flows science advisory committee consists of at least five but not more than nine members appointed by the advisory group.

(b) The advisory group shall appoint to the science advisory committee persons who will provide an objective perspective and diverse technical expertise, including expertise in hydrology, hydraulics, water resources, aquatic and terrestrial biology, geomorphology, geology, water quality, computer modeling, and other technical areas pertinent to the evaluation of environmental flows.

(c) Members of the science advisory committee serve five-year terms expiring March 1. A vacancy on the science advisory committee is filled by appointment by the co-presiding officers of the advisory group for the unexpired term.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the science advisory committee.

(e) The science advisory committee shall:

(1) serve as an objective scientific body to advise and make recommendations to the advisory group on issues relating to the science of environmental flow protection; and

(2) develop recommendations to help provide overall direction, coordination, and consistency relating to:

(A) environmental flow methodologies for bay and estuary studies and instream flow studies;

(B) environmental flow programs at the commission, the Parks and Wildlife Department, and the board; and

(C) the work of the basin and bay expert science teams described in Section 11.02362.

(f) To assist the advisory group to assess the extent to which the recommendations of the science advisory committee are considered and implemented, the commission, the Parks and Wildlife Department, and the board shall provide written reports to the advisory group, at intervals determined by the advisory group, that describe:

(1) the actions taken by each agency in response to each recommendation; and

(2) for each recommendation not implemented, the reason it was not implemented.

(g) The science advisory committee is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (a) For the purposes of this section, the advisory group, not later than November 1, 2007, shall define the geographical extent of each river basin and bay system in this state for the sole purpose of developing environmental flow regime recommendations under this section and adoption of environmental flow standards under Section 11.1471.

(b) The advisory group shall give priority in descending order to the following river basin and bay systems of the state for the purpose of developing environmental flow regime recommendations and adopting environmental flow standards:

(1) the river basin and bay system consisting of the Trinity and San Jacinto Rivers and Galveston Bay and the river basin

and bay system consisting of the Sabine and Neches Rivers and Sabine Lake Bay;

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays; and

(3) the river basin and bay system consisting of the Nueces River and Corpus Christi and Baffin Bays, the river basin and bay system consisting of the Rio Grande, the Rio Grande estuary, and the Lower Laguna Madre, and the Brazos River and its associated bay and estuary system.

(c) For the river basin and bay systems listed in Subsection (b)(1):

(1) the advisory group shall appoint the basin and bay area stakeholders committee not later than November 1, 2007;

(2) the basin and bay area stakeholders committee shall establish a basin and bay expert science team not later than March 1, 2008;

(3) the basin and bay expert science team shall finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and the commission not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group may extend the deadline provided by this subdivision;

(4) the basin and bay area stakeholders committee

shall submit to the commission its comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime not later than September 1, 2009; and

(5) the commission shall adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2010.

(d) The advisory group shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2) not later than September 1, 2008, and shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. The advisory group shall establish a schedule for the performance of the tasks listed in Subsections (c)(2) through (5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by the commission as soon as is reasonably possible. Each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) shall make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. The advisory group shall consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team as well as coordinate with, and give appropriate consideration to the recommendations of, the commission, the Parks and Wildlife Department, and the board in establishing the schedule.

(e) For a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), the advisory group shall establish a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards. The advisory group shall develop the schedule in consultation with the commission, the Parks and Wildlife Department, the board, and the pertinent basin and bay area stakeholders committee and basin and bay expert science team. The advisory group may, on its own initiative or on request, modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. This subsection does not prohibit, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards, an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process.

(f) The advisory group shall appoint a basin and bay area stakeholders committee for each river basin and bay system in this state for which a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards is specified by or established under Subsection (c), (d), or (e). Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay area stakeholders committee. Each committee must consist of at least 17 members. The membership of each committee must:

(1) reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system for which the committee is established; and

(2) be representative of appropriate stakeholders, including the following if they have a presence in the particular river basin and bay system for which the committee is established:

(A) agricultural water users, including representatives of each of the following sectors:

(i) agricultural irrigation;

(ii) free-range livestock; and

(iii) concentrated animal feeding operation;

(B) recreational water users, including coastal recreational anglers and businesses supporting water recreation;

(C) municipalities;

(D) soil and water conservation districts;

(E) industrial water users, including representatives of each of the following sectors:

(i) refining;

(ii) chemical manufacturing;

(iii) electricity generation; and

(iv) production of paper products or timber;

(F) commercial fishermen;

(G) public interest groups;

(H) regional water planning groups;

(I) groundwater conservation districts;

(J) river authorities and other conservation and reclamation districts with jurisdiction over surface water; and

(K) environmental interests.

(g) Members of a basin and bay area stakeholders committee serve five-year terms expiring March 1. If a vacancy occurs on a committee, the remaining members of the committee by majority vote shall appoint a member to serve the remainder of the unexpired term.

(h) Meetings of a basin and bay area stakeholders committee must be open to the public.

(i) Each basin and bay area stakeholders committee shall establish a basin and bay expert science team for the river basin and bay system for which the committee is established. The basin and bay expert science team must be established not later than six months after the date the basin and bay area stakeholders committee is established. Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay expert science team. Each basin and bay expert science team must be composed of technical experts with special expertise regarding the river basin and bay system or regarding the development of environmental flow regimes. A person may serve as a member of more than one basin and bay expert science team at the same time.

(j) The members of a basin and bay expert science team serve five-year terms expiring April 1. A vacancy on a basin and bay expert science team is filled by appointment by the pertinent basin and bay area stakeholders committee to serve the remainder of the unexpired term.

(k) The science advisory committee shall appoint one of its

members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout the state. The commission, the Parks and Wildlife Department, and the board shall provide technical assistance to each basin and bay expert science team, including information about the studies conducted under Sections 16.058 and 16.059, and may serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

(l) Where reasonably practicable, meetings of a basin and bay expert science team must be open to the public.

(m) Each basin and bay expert science team shall develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. In developing the analyses and recommendations, the science team must consider all reasonably available science, without regard to the need for the water for other uses, and the science team's recommendations must be based solely on the best science available. For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.

(n) Each basin and bay expert science team shall submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and the commission in accordance with the applicable schedule specified by or established under

Subsection (c), (d), or (e). The basin and bay area stakeholders committee and the advisory group may not change the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Each basin and bay area stakeholders committee shall review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision. The basin and bay area stakeholders committee shall develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to the commission and to the advisory group in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). In developing its recommendations, the basin and bay area stakeholders committee shall operate on a consensus basis to the maximum extent possible.

(p) In recognition of the importance of adaptive

management, after submitting its recommendations regarding environmental flow standards and strategies to meet the environmental flow standards to the commission, each basin and bay area stakeholders committee, with the assistance of the pertinent basin and bay expert science team, shall prepare and submit for approval by the advisory group a work plan. The work plan must:

(1) establish a periodic review of the basin and bay environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies, to occur at least once every 10 years;

(2) prescribe specific monitoring, studies, and activities; and

(3) establish a schedule for continuing the validation or refinement of the basin and bay environmental flow analyses and environmental flow regime recommendations, the environmental flow standards adopted by the commission, and the strategies to achieve those standards.

(q) In accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e), the advisory group, with input from the science advisory committee, shall review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. If appropriate, the advisory group shall submit comments on the analyses and recommendations to the commission for use by the commission in adopting rules under Section 11.1471. Comments must be submitted not later than six months after the date of receipt of the analyses and recommendations.

(r) Notwithstanding the other provisions of this section, in the event the commission, by permit or order, has established an estuary advisory council with specific duties related to implementation of permit conditions for environmental flows, that council may continue in full force and effect and shall act as and perform the duties of the basin and bay area stakeholders committee under this section. The estuary advisory council shall add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the criteria for membership established in Subsection (f) and shall operate under the provisions of this section.

(s) Each basin and bay area stakeholders committee and basin and bay expert science team is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. The commission may approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) This section does not alter the commission's obligations under Section 11.042(b) or (c), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, or 16.059.

SECTION 1.08. Subsection (b), Section 11.082, Water Code,

is amended to read as follows:

(b) The state may recover the penalties prescribed in Subsection (a) [~~of this section~~] by suit brought for that purpose in a court of competent jurisdiction. The state may seek those penalties regardless of whether a watermaster has been appointed for the water division, river basin, or segment of a river basin where the unlawful use is alleged to have occurred.

SECTION 1.09. Section 11.0841, Water Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of this section, the Parks and Wildlife Department has:

(1) the rights of a holder of a water right that is held in the Texas Water Trust, including the right to file suit in a civil court to prevent the unlawful use of such a right;

(2) the right to act in the same manner that a holder of a water right may act to protect the holder's rights in seeking to prevent any person from appropriating water in violation of a set-aside established by the commission under Section 11.1471 to meet instream flow needs or freshwater inflow needs; and

(3) the right to file suit in a civil court to prevent the unlawful use of a set-aside established under Section 11.1471.

SECTION 1.10. Subsection (a), Section 11.0842, Water Code, is amended to read as follows:

(a) If a person violates this chapter, a rule or order adopted under this chapter or Section 16.236 [~~of this code~~], or a permit, certified filing, or certificate of adjudication issued under this chapter, the commission may assess an administrative

penalty against that person as provided by this section. The commission may assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin.

SECTION 1.11. Subsection (a), Section 11.0843, Water Code, is amended to read as follows:

(a) Upon witnessing a violation of this chapter or a rule or order or a water right issued under this chapter, the executive director or a person designated by the executive director, including a watermaster or the watermaster's deputy, [~~as defined by commission rule,~~] may issue the alleged violator a field citation alleging that a violation has occurred and providing the alleged violator the option of either:

(1) without admitting to or denying the alleged violation, paying an administrative penalty in accordance with the predetermined penalty amount established under Subsection (b) [~~of this section~~] and taking remedial action as provided in the citation; or

(2) requesting a hearing on the alleged violation in accordance with Section 11.0842 [~~of this code~~].

SECTION 1.12. Subsection (b), Section 11.134, Water Code, is amended to read as follows:

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply;

(3) the proposed appropriation:

(A) is intended for a beneficial use;

(B) does not impair existing water rights or vested riparian rights;

(C) is not detrimental to the public welfare;

(D) considers any applicable environmental flow standards established under Section 11.1471 and, if applicable, the assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and

(E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant approved regional water plan for any area in which the proposed appropriation is located, unless the commission determines that conditions warrant waiver of this requirement; and

(4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by [~~Subdivision (8)(B),~~] Section 11.002(8)(B) [~~11.002~~].

SECTION 1.13. Section 11.147, Water Code, is amended by amending Subsections (b), (d), and (e) and adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200

river miles of the coast, to commence from the mouth of the river thence inland, the commission shall include in the permit any conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system, to the extent practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491[~~, those conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system~~].

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain existing instream uses and water quality of the stream or river to which the application applies. In determining what conditions to include in the permit under this subsection, the commission shall consider among other factors:

(1) the studies mandated by Section 16.059; and

(2) any water quality assessment performed under Section 11.150.

(e) The commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain fish and wildlife habitats. In determining what conditions to include in the permit under this subsection, the commission shall consider any assessment performed under Section 11.152.

(e-1) Any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of

water authorized to be stored, taken, or diverted must include a provision allowing the commission to adjust the conditions included in the permit or amended water right to provide for protection of instream flows or freshwater inflows. With respect to an amended water right, the provision may not allow the commission to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2007. The commission shall adjust the conditions if the commission determines, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. The adjustment:

(1) in combination with any previous adjustments made under this subsection may not increase the amount of the pass-through or release requirement for the protection of instream flows or freshwater inflows by more than 12.5 percent of the annualized total of that requirement contained in the permit as issued or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right;

(2) must be based on appropriate consideration of the priority dates and diversion locations of any other water rights granted in the same river basin that are subject to adjustment under

this subsection; and

(3) must be based on appropriate consideration of any voluntary contributions to the Texas Water Trust, and of any voluntary amendments to existing water rights to change the use of a specified quantity of water to or add a use of a specified quantity of water for instream flows dedicated to environmental needs or bay and estuary inflows as authorized by Section 11.0237(a), that actually contribute toward meeting the applicable environmental flow standards.

(e-2) Any water right holder who makes a contribution or amends a water right as described by Subsection (e-1)(3) is entitled to appropriate credit for the benefits of the contribution or amendment against the adjustment of the holder's water right under Subsection (e-1).

(e-3) Notwithstanding Subsections (b)-(e), for the purpose of determining the environmental flow conditions necessary to maintain freshwater inflows to an affected bay and estuary system, existing instream uses and water quality of a stream or river, or fish and aquatic wildlife habitats, the commission shall apply any applicable environmental flow standard, including any environmental flow set-aside, adopted under Section 11.1471 instead of considering the factors specified by those subsections.

SECTION 1.14. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1471 to read as follows:

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES. (a) The commission by rule shall:

(1) adopt appropriate environmental flow standards

for each river basin and bay system in this state that are adequate to support a sound ecological environment, to the maximum extent reasonable considering other public interests and other relevant factors;

(2) establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum extent reasonable when considering human water needs; and

(3) establish procedures for implementing an adjustment of the conditions included in a permit or an amended water right as provided by Sections 11.147(e-1) and (e-2).

(b) In adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), the commission shall consider:

(1) the definition of the geographical extent of the river basin and bay system adopted by the advisory group under Section 11.02362(a) and the definition and designation of the river basin by the board under Section 16.051(c);

(2) the schedule established by the advisory group under Section 11.02362(d) or (e) for the adoption of environmental flow standards for the river basin and bay system, if applicable;

(3) the environmental flow analyses and the recommended environmental flow regime developed by the applicable basin and bay expert science team under Section 11.02362(m);

(4) the recommendations developed by the applicable basin and bay area stakeholders committee under Section 11.02362(o) regarding environmental flow standards and strategies to meet the

flow standards;

(5) any comments submitted by the advisory group to the commission under Section 11.02362(q);

(6) the specific characteristics of the river basin and bay system;

(7) economic factors;

(8) the human and other competing water needs in the river basin and bay system;

(9) all reasonably available scientific information, including any scientific information provided by the science advisory committee; and

(10) any other appropriate information.

(c) Environmental flow standards adopted under Subsection (a)(1) must consist of a schedule of flow quantities, reflecting seasonal and yearly fluctuations that may vary geographically by specific location in a river basin and bay system.

(d) As provided by Section 11.023, the commission may not issue a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). A permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside must contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e) An environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande must be assigned a priority date corresponding to the date the commission receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f) An environmental flow standard or environmental flow set-aside adopted under Subsection (a) may be altered by the commission in a rulemaking process undertaken in accordance with a schedule established by the commission. In establishing a schedule, the commission shall consider the applicable work plan approved by the advisory group under Section 11.02362(p). The commission's schedule may not provide for the rulemaking process to occur more frequently than once every 10 years unless the work plan provides for a periodic review under Section 11.02362(p) to occur more frequently than once every 10 years. In that event, the commission may provide for the rulemaking process to be undertaken in conjunction with the periodic review if the commission determines that schedule to be appropriate. A rulemaking process undertaken under this subsection must provide for the participation of stakeholders having interests in the particular river basin and bay system for which the process is undertaken.

SECTION 1.15. The heading to Section 11.148, Water Code, is

amended to read as follows:

Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR ENVIRONMENTAL FLOWS.

SECTION 1.16. Section 11.148, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) Before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) [~~of this section~~], it must give written notice to the Parks and Wildlife Department of the proposed action [~~suspension~~]. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action [~~suspension~~] within 72 hours from such time and the commission shall consider those comments before issuing its order implementing the proposed action [~~imposing the suspension~~].

(c) The commission may suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than the Parks and Wildlife Department as provided by Subsection (b) [~~of this section~~]. However, all affected persons shall be notified

immediately by publication, and a hearing to determine whether the suspension should be continued shall be held within 15 days of the date on which the order to suspend is issued.

SECTION 1.17. Subsection (a), Section 11.1491, Water Code, is amended to read as follows:

(a) The Parks and Wildlife Department and the commission shall have joint responsibility to review the studies prepared under Section 16.058 [~~of this code~~], to determine inflow conditions necessary for the bays and estuaries, and to provide information necessary for water resources management. Each agency shall designate an employee to share equally in the oversight of the program. Other responsibilities shall be divided between the Parks and Wildlife Department and the commission to maximize present in-house capabilities of personnel and to minimize costs to the state. Each agency shall have reasonable access to all information produced by the other agency. Publication of reports completed under this section shall be submitted for comment to [~~both~~] the commission, [~~and~~] the Parks and Wildlife Department, the advisory group, the science advisory committee, and any applicable basin and bay area stakeholders committee and basin and bay expert science team.

SECTION 1.18. Subsection (g), Section 11.329, Water Code, is amended to read as follows:

(g) The commission may not assess costs under this section against a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts or against a holder of a water

right placed in the Texas Water Trust for a term of at least 20 years. [~~This subsection is not intended to affect in any way the fees assessed on a water right holder by the commission under Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts shall be assessed fees at the same rate per acre-foot charged to a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of more than two megawatts.~~]

SECTION 1.19. Subsection (e), Section 11.404, Water Code, is amended to read as follows:

(e) The court may not assess costs and expenses under this section against:

(1) a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts; or

(2) a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.20. Subchapter I, Chapter 11, Water Code, is amended by adding Section 11.4531 to read as follows:

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, the executive director shall appoint a watermaster advisory committee

consisting of at least nine but not more than 15 members. A member of the advisory committee must be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. In appointing members to the advisory committee, the executive director shall consider:

(1) geographic representation;

(2) amount of water rights held;

(3) different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users; and

(4) experience and knowledge of water management practices.

(b) An advisory committee member is not entitled to reimbursement of expenses or to compensation.

(c) An advisory committee member serves a two-year term expiring August 31 of each odd-numbered year and holds office until a successor is appointed.

(d) The advisory committee shall meet within 30 days after the date the initial appointments have been made and shall select a presiding officer to serve a one-year term. The committee shall meet regularly as necessary.

(e) The advisory committee shall:

(1) make recommendations to the executive director regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights in the river basin or segment of the river basin for which

the watermaster is appointed;

(2) review and comment to the executive director on the annual budget of the watermaster operation; and

(3) perform other advisory duties as requested by the executive director regarding the watermaster operation or as requested by holders of water rights and considered by the committee to benefit the administration of water rights in the river basin or segment of the river basin for which the watermaster is appointed.

SECTION 1.21. Sections 11.454 and 11.455, Water Code, are amended to read as follows:

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G [~~A watermaster as the agent of the commission and under the executive director's supervision shall:~~

[~~(1) divide the water of the streams or other sources of supply of his segment or basin in accordance with the authorized water rights;~~

[~~(2) regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his segment or basin, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully~~

~~entitled; and~~

[~~(3) perform any other duties and exercise any authority directed by the commission~~].

Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER [~~ASSESSMENTS~~]. (a) Section 11.329 applies to the payment of the compensation and expenses of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the payment of the compensation and expenses of a watermaster appointed for a water division under Subchapter G.

(b) The executive director shall deposit the assessments collected under this section to the credit of the watermaster fund.

(c) Money deposited under this section to the credit of the watermaster fund may be used only for the purposes specified by Section 11.3291 with regard to the watermaster operation under this subchapter with regard to which the assessments were collected [~~The commission may assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction in accordance with Section 11.329 of this code~~].

SECTION 1.22. Subchapter F, Chapter 15, Water Code, is amended by adding Section 15.4063 to read as follows:

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may authorize the use of money in the research and planning fund:

(1) to compensate the members of the Texas environmental flows science advisory committee established under Section 11.02361 for attendance and participation at meetings of

the committee and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act;

(2) for contracts with cooperating state and federal agencies and universities and with private entities as necessary to provide technical assistance to enable the Texas environmental flows science advisory committee and the basin and bay expert science teams established under Section 11.02362 to perform their statutory duties;

(3) to compensate the members of the basin and bay expert science teams established under Section 11.02362 for attendance and participation at meetings of the basin and bay expert science teams and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act; and

(4) for contracts with political subdivisions designated as representatives of basin and bay area stakeholders committees established under Section 11.02362 to fund all or part of the administrative expenses incurred in conducting meetings of the basin and bay area stakeholders committees or the pertinent basin and bay expert science teams.

SECTION 1.23. Subsection (d), Section 16.059, Water Code, is amended to read as follows:

(d) The priority studies shall be completed not later than December 31, 2016 [~~2010~~]. The Parks and Wildlife Department, the commission, and the board shall establish a work plan that prioritizes the studies and that sets interim deadlines providing

for publication of flow determinations for individual rivers and streams on a reasonably consistent basis throughout the prescribed study period. Before publication, completed studies shall be submitted for comment to the commission, the board, and the Parks and Wildlife Department.

SECTION 1.24. Subsection (h), Section 26.0135, Water Code, as amended by Chapters 234 and 965, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. Irrigation water rights, [~~and~~] non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that program funds are equitably apportioned among basins,

that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177 [~~of this chapter~~]. The rules concerning the apportionment and assessment of reasonable costs shall provide for a recovery of not more than $5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of the costs recovered annually toward the commission's overhead costs for the administration of this section and the implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

SECTION 1.25. Subsection (b), Section 11.1491, Water Code, is repealed.

SECTION 1.26. (a) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the initial members of the environmental flows advisory group as provided by Section 11.0236, Water Code, as added by this article, as soon as practicable on or after the effective date of this Act.

(b) As soon as practicable after taking office, the initial members of the environmental flows advisory group shall appoint the

initial members of the Texas environmental flows science advisory committee as provided by Section 11.02361, Water Code, as added by this article. The terms of the initial members of the committee expire March 1, 2012.

(c) The environmental flows advisory group shall appoint the members of each basin and bay area stakeholders committee as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(d) Each basin and bay area stakeholders committee shall appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each team expire April 1 of the fifth year that begins after the year in which the initial appointments are made.

(e) The executive director of the Texas Commission on Environmental Quality shall appoint the members of the watermaster advisory committee under Section 11.4531, Water Code, as added by this article, for each river basin or segment of a river basin for which the executive director appoints a watermaster under Subchapter I, Chapter 11, Water Code. The terms of the initial members of each committee expire August 31 of the first odd-numbered year that begins after the year in which the initial appointments are made.

SECTION 1.27. The changes in law made by this article

relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply only to:

(1) water appropriated under a permit for a new appropriation of water the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date; or

(2) the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date.

ARTICLE 2. WATER CONSERVATION AND PLANNING AND OTHER WATER-RELATED PROVISIONS

SECTION 2.01. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; [~~and~~]

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and

(7) the voluntary stewardship of public and private lands to benefit waters of the state.

SECTION 2.02. Subchapter A, Chapter 1, Water Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP. (a) The legislature finds that voluntary land stewardship enhances the efficiency and effectiveness of this state's watersheds by helping to increase surface water and groundwater supplies, resulting in a benefit to the natural resources of this state and to the general public. It is therefore the policy of this state to encourage voluntary land stewardship as a significant water management tool.

(b) "Land stewardship," as used in this code, is the voluntary practice of managing land to conserve or enhance suitable landscapes and the ecosystem values of the land. Land stewardship includes land and habitat management, wildlife conservation, and watershed protection. Land stewardship practices include runoff reduction, prescribed burning, managed grazing, brush management,

erosion management, reseeding with native plant species, riparian management and restoration, and spring and creek-bank protection, all of which benefit the water resources of this state.

SECTION 2.03. Subtitle A, Title 2, Water Code, is amended by adding Chapter 10 to read as follows:

CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. DEFINITIONS. In this chapter:

(1) "Best management practices" has the meaning assigned by Section 11.002.

(2) "Board" means the Texas Water Development Board.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Council" means the Water Conservation Advisory Council.

Sec. 10.002. PURPOSE. The council is created to provide the governor, lieutenant governor, speaker of the house of representatives, legislature, board, commission, political subdivisions, and public with the resource of a select council with expertise in water conservation.

Sec. 10.003. CREATION AND MEMBERSHIP. (a) The council is composed of 23 members appointed by the board. The board shall appoint one member to represent each of the following entities or interest groups:

(1) Texas Commission on Environmental Quality;

(2) Department of Agriculture;

(3) Parks and Wildlife Department;

(4) State Soil and Water Conservation Board;

(5) Texas Water Development Board;

(6) regional water planning groups;

(7) federal agencies;

(8) municipalities;

(9) groundwater conservation districts;

(10) river authorities;

(11) environmental groups;

(12) irrigation districts;

(13) institutional water users;

(14) professional organizations focused on water conservation;

(15) higher education;

(16) agricultural groups;

(17) refining and chemical manufacturing;

(18) electric generation;

(19) mining and recovery of minerals;

(20) landscape irrigation and horticulture;

(21) water control and improvement districts;

(22) rural water users; and

(23) municipal utility districts.

(b) Each entity or interest group described by Subsection (a) may recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. If one or more persons are recommended for a position on the council, the board shall appoint one of the persons recommended to fill the position.

Sec. 10.004. TERMS. (a) Members of the council serve

staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) The board shall fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. PRESIDING OFFICER. The council members shall select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. COUNCIL STAFF. On request by the council, the board shall provide any necessary staff to assist the council in the performance of its duties.

Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The council may hold public meetings as needed to fulfill its duties under this chapter.

(b) The council is subject to Chapters 551 and 552, Government Code.

Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the council.

Sec. 10.009. COMPENSATION OF MEMBERS. (a) Members of the council serve without compensation but may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council shall:

(1) monitor trends in water conservation implementation;

(2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;

(3) monitor the effectiveness of the statewide water conservation public awareness program developed under Section 16.401 and associated local involvement in implementation of the program;

(4) develop and implement a state water management resource library;

(5) develop and implement a public recognition program for water conservation;

(6) monitor the implementation of water conservation strategies by water users included in regional water plans; and

(7) monitor target and goal guidelines for water conservation to be considered by the board and commission.

Sec. 10.011. REPORT. Not later than December 1 of each even-numbered year, the council shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report on progress made in water conservation in this state.

Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) The council shall conduct a study

to evaluate the desirability of requiring the board to:

(1) designate as certified water conservation training facilities entities and programs that provide assistance to retail public utilities in developing water conservation plans under Section 13.146; and

(2) give preference to certified water conservation training facilities in making loans or grants for water conservation training and education activities.

(b) Not later than December 1, 2008, the council shall submit a written report containing the findings of the study and the recommendations of the council to the governor, lieutenant governor, and speaker of the house of representatives.

(c) This section expires June 1, 2009.

SECTION 2.04. Section 11.002, Water Code, is amended by adding Subdivision (20) to read as follows:

(20) "Best management practices" means those voluntary efficiency measures developed by the commission and the board that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specified time frame.

SECTION 2.05. Subdivisions (1-a), (5), and (8), Section 13.002, Water Code, are amended to read as follows:

(1-a) "Landowner," "owner of a tract of land," and "owners of each tract of land" include multiple owners of a single deeded tract of land as shown on the appraisal roll of the appraisal district established for each county in which the property is located.

(5) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

(8) "Executive director" means the executive director of the commission [~~Texas Natural Resource Conservation Commission~~].

SECTION 2.06. Subchapter E, Chapter 13, Water Code, is amended by adding Sections 13.146 and 13.147 to read as follows:

Sec. 13.146. WATER CONSERVATION PLAN. The commission shall require a retail public utility that provides potable water service to 3,300 or more connections to submit to the executive administrator of the board a water conservation plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002, or other water conservation strategies.

Sec. 13.147. CONSOLIDATED BILLING AND COLLECTION CONTRACTS. (a) A retail public utility providing water service may contract with a retail public utility providing sewer service to bill and collect the sewer service provider's fees and payments as part of a consolidated process with the billing and collection of the water service provider's fees and payments. The water service provider may provide that service only for customers who are served by both providers in an area covered by both providers' certificates of public convenience and necessity. If the water service provider refuses to enter into a contract under this section or if the water service provider and sewer service provider cannot agree on the terms of a contract, the sewer service provider may petition the commission to issue an order requiring the water

service provider to provide that service.

(b) A contract or order under this section must provide procedures and deadlines for submitting billing and customer information to the water service provider and for the delivery of collected fees and payments to the sewer service provider.

(c) A contract or order under this section may require or permit a water service provider that provides consolidated billing and collection of fees and payments to:

(1) terminate the water services of a person whose sewage services account is in arrears for nonpayment; and

(2) charge a customer a reconnection fee if the customer's water service is terminated for nonpayment of the customer's sewage services account.

(d) A water service provider that provides consolidated billing and collection of fees and payments may impose on each sewer service provider customer a reasonable fee to recover costs associated with providing consolidated billing and collection of fees and payments for sewage services.

SECTION 2.07. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.188 to read as follows:

Sec. 13.188. ADJUSTMENT FOR CHANGE IN ENERGY COSTS. (a) Notwithstanding any other provision in this chapter, the commission by rule shall adopt a procedure allowing a utility to file with the commission an application to timely adjust the utility's rates to reflect an increase or decrease in documented energy costs in a pass through clause. The commission, by rule, shall require the pass through of documented decreases in energy

costs within a reasonable time. The pass through, whether a decrease or increase, shall be implemented on no later than an annual basis, unless the commission determines a special circumstance applies.

(b) Notwithstanding any other provision to the contrary, this adjustment is an uncontested matter not subject to a contested case hearing. However, the executive director shall hold an uncontested public meeting:

(1) on the request of a member of the legislature who represents the area served by the water and sewer utility; or

(2) if the executive director determines that there is substantial public interest in the matter.

(c) A proceeding under this section is not a rate case and Section 13.187 does not apply.

SECTION 2.08. Section 13.2451, Water Code, is amended to read as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION. (a) If [~~Except as provided by Subsection (b), if~~] a municipality extends its extraterritorial jurisdiction to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its certificate and this chapter.

(b) A municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction must ensure that the municipality complies with Section 13.241 in relation to the area covered by the

portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.

(c) The commission, after notice to the municipality and an opportunity for a hearing, may decertify an area outside a municipality's extraterritorial jurisdiction if the municipality does not provide service to the area on or before the fifth anniversary of the date the certificate of public convenience and necessity was granted for the area. This subsection does not apply to a certificate of public convenience and necessity for an area:

(1) that was transferred to a municipality on approval of the commission; and

(2) in relation to which the municipality has spent public funds.

(d) To the extent of a conflict between this section and Section 13.245, Section 13.245 prevails [~~The commission may not extend a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction without the written consent of the landowner who owns the property in which the certificate is to be extended. The portion of any certificate of public convenience and necessity that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner is void~~].

SECTION 2.09. Subsection (a-1), Section 13.246, Water Code, is amended to read as follows:

(a-1) Except as otherwise provided by this subsection, in addition to the notice required by Subsection (a), the commission shall require notice to be mailed to each owner of a tract of land

that is at least 25 [~~50~~] acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate notice to landowners. Notice under this subsection is not required for a matter filed with the commission under:

(1) Section 13.248 or 13.255; or

(2) Chapter 65.

SECTION 2.10. Subsection (b), Section 15.102, Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide:

(1) grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; and

(2) grants for:

(A) projects for which federal grant funds are placed in the loan fund;

(B) projects, on specific legislative appropriation for those projects; or

(C) water conservation, desalination, brush control, weather modification, regionalization, and projects

providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.

SECTION 2.11. Subchapter Q, Chapter 15, Water Code, is amended by adding Section 15.9751 to read as follows:

Sec. 15.9751. PRIORITY FOR WATER CONSERVATION. The board shall give priority to applications for funds for the implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.12. Section 16.017, Water Code, is amended to read as follows:

Sec. 16.017. TOPOGRAPHIC AND GEOLOGIC MAPPING. (a) The executive administrator shall carry out the program for topographic and geologic mapping of the state.

(b) The executive administrator shall operate as part of the Texas Natural Resources Information System a strategic mapping program to acquire, store, and distribute digital, geospatial information.

SECTION 2.13. Subchapter B, Chapter 16, Water Code, is amended by adding Sections 16.023 and 16.024 to read as follows:

Sec. 16.023. STRATEGIC MAPPING ACCOUNT. (a) The strategic mapping account is an account in the general revenue fund. The account consists of:

(1) money directly appropriated to the board;

(2) money transferred by the board from other funds available to the board;

(3) money from gifts or grants from the United States government, state, regional, or local governments, educational institutions, private sources, or other sources;

(4) proceeds from the sale of maps, data, publications, and other items; and

(5) interest earned on the investment of money in the account and depository interest allocable to the account.

(b) The account may be appropriated only to the board to:

(1) develop, administer, and implement the strategic mapping program;

(2) provide grants to political subdivisions for projects related to the development, use, and dissemination of digital, geospatial information; and

(3) administer, implement, and operate other programs of the Texas Natural Resources Information System, including:

(A) the operation of a Texas-Mexico border region information center for the purpose of implementing Section 16.021 (e)(5);

(B) the acquisition, storage, and distribution of historical maps, photographs, and paper map products;

(C) the maintenance and enhancement of information technology; and

(D) the production, storage, and distribution of other digital base maps, as determined by the executive

administrator or a state agency that is a member of the Texas Geographic Information Council.

(c) The board may invest, reinvest, and direct the investment of any available money in the fund as provided by law for the investment of money under Section 404.024, Government Code.

Sec. 16.024. FINANCIAL ASSISTANCE FOR DIGITAL, GEOSPATIAL INFORMATION PROJECTS. (a) A political subdivision seeking a grant under Section 16.023 must file an application with the board.

(b) An application must be filed in the manner and form required by board rules.

(c) In reviewing an application by a political subdivision for a grant, the board shall consider:

(1) the degree to which the political subdivision has used other available resources to finance the development, use, and dissemination of digital, geospatial information;

(2) the willingness and ability of the political subdivision to develop, use, and disseminate digital, geospatial information; and

(3) the benefits that will be gained by making the grant.

(d) The board may approve a grant to a political subdivision only if the board finds that:

(1) the grant will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further the state's ability to

gather, develop, use, and disseminate digital, geospatial information.

SECTION 2.14. Subsection (h), Section 16.053, Water Code, is amended by adding Subdivisions (10) and (11) to read as follows:

(10) The regional water planning group may amend the regional water plan after the plan has been approved by the board. Subdivisions (1)-(9) apply to an amendment to the plan in the same manner as those subdivisions apply to the plan.

(11) This subdivision applies only to an amendment to a regional water plan approved by the board. This subdivision does not apply to the adoption of a subsequent regional water plan for submission to the board as required by Subsection (i). Notwithstanding Subdivision (10), the regional water planning group may amend the plan in the manner provided by this subdivision if the executive administrator makes a written determination that the proposed amendment qualifies for adoption in the manner provided by this subdivision before the regional water planning group votes on adoption of the amendment. A proposed amendment qualifies for adoption in the manner provided by this subdivision only if the amendment is a minor amendment, as defined by board rules, that will not result in the overallocation of any existing or planned source of water, does not relate to a new reservoir, and will not have a significant effect on instream flows or freshwater inflows to bays and estuaries. If the executive administrator determines that a proposed amendment qualifies for adoption in the manner provided by this subdivision, the regional water planning group may adopt the amendment at a public meeting held in accordance

with Chapter 551, Government Code. The proposed amendment must be placed on the agenda for the meeting, and notice of the meeting must be given in the manner provided by Chapter 551, Government Code, at least two weeks before the date the meeting is held. The public must be provided an opportunity to comment on the proposed amendment at the meeting.

SECTION 2.15. Subsection (r), Section 16.053, Water Code, as added by Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(r) The board by rule shall provide for reasonable flexibility to allow for a timely amendment of a regional water plan, the board's approval of an amended regional water plan, and the amendment of the state water plan. If an amendment under this subsection is[~~,~~] to facilitate planning for water supplies reasonably required for a clean coal project, as defined by Section 5.001, the[~~. The~~] rules may allow for amending a regional water plan without providing notice and without a public meeting or hearing under Subsection (h) if the amendment does not:

(1) significantly change the regional water plan, as reasonably determined by the board; or

(2) adversely affect other water management strategies in the regional water plan.

SECTION 2.16. Subchapter E, Chapter 16, Water Code, is amended by adding Section 16.1311 to read as follows:

Sec. 16.1311. PRIORITY FOR WATER CONSERVATION. The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.17. Sections 16.315 and 16.319, Water Code, are amended to read as follows:

Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. All political subdivisions are hereby authorized to take all necessary and reasonable actions that are not less stringent than [~~to comply with~~] the requirements and criteria of the National Flood Insurance Program, including but not limited to:

(1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;

(2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;

(3) assisting in minimizing damage caused by floods;

(4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;

(5) engaging in floodplain management, [~~and~~] adopting and enforcing permanent land use and control measures that are not less stringent than those [~~consistent with the criteria~~] established under the National Flood Insurance Act, and providing

for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;

(6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;

(7) consulting with, giving information to, and entering into agreements with the Federal Emergency Management Agency for the purpose of:

(A) identifying and publishing information with respect to all flood areas, including coastal areas; and

(B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;

(10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency

or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the commission;

(12) satisfying criteria adopted and promulgated by the commission pursuant to the National Flood Insurance Program;

(13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than [~~which are consistent with~~] the criteria for land management and use adopted by the director;

(14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;

(15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and

(16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that [~~which measures~~] will be not less stringent than [~~consistent with~~] the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

SECTION 2.18. Chapter 16, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. (a) The executive administrator shall develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. The program shall take into account the differences in water conservation needs of various geographic regions of the state and shall be designed to complement and support existing local and regional water conservation programs.

(b) The executive administrator is required to develop and implement the program required by Subsection (a) in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each entity that is required to submit a water conservation plan to the commission under this code shall submit a copy of the plan to the executive administrator.

(b) Each entity that is required to submit a water conservation plan to the executive administrator, board, or commission under this code shall report annually to the executive

administrator on the entity's progress in implementing the plan.

(c) The executive administrator shall review each water conservation plan and annual report to determine compliance with the minimum requirements established by Section 11.1271 and the submission deadlines developed under Subsection (e) of this section.

(d) The board may notify the commission if the board determines that an entity has violated this section or a rule adopted under this section. Notwithstanding Section 7.051(b), a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the commission's jurisdiction or of a rule adopted by the commission under a provision of this code within the commission's jurisdiction.

(e) The board and commission jointly shall adopt rules:

(1) identifying the minimum requirements and submission deadlines for the annual reports required by Subsection (b); and

(2) providing for the enforcement of this section and rules adopted under this section.

SECTION 2.19. Section 17.125, Water Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.20. Chapter 35, Water Code, is amended by adding Section 35.020 to read as follows:

Sec. 35.020. PUBLIC PARTICIPATION IN GROUNDWATER MANAGEMENT PROCESS. It is the policy of the state to encourage public participation in the groundwater management process in areas within a groundwater management area not represented by a groundwater conservation district.

SECTION 2.21. Subsection (d), Section 36.113, Water Code, is amended to read as follows:

(d) Before granting or denying a permit or permit amendment, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake,

or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation; and

(7) [~~(6)~~] the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 2.22. Subsection (d), Section 36.117, Water Code, is amended to read as follows:

(d) Notwithstanding Subsection (b), a district may require a well to be permitted by the district and to comply with all district rules if:

(1) the withdrawals from a well in the Hill Country Priority Groundwater Management Area and exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

(2) the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(3) [~~(2)~~] the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

SECTION 2.23. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2205 to read as follows:

Sec. 49.2205. USE OF RIGHT-OF-WAY EASEMENTS FOR CERTAIN ENERGY-RELATED PURPOSES. (a) To foster the generation and transmission of electricity from clean coal projects, as defined by Section 5.001, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, a district or water supply corporation may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along rights-of-way and easements of the district or water supply corporation for transmission of electricity generated by those projects and the transportation of carbon dioxide and other greenhouse gases, unless the use:

(1) is incompatible with the public use for which the easement was acquired or condemned; or

(2) compromises public health or safety.

(b) The district or water supply corporation is not required to obtain additional consideration for the construction, maintenance, and operation of the transmission lines and pipelines under this section if the person constructing, maintaining, and operating the transmission lines and pipelines bears all costs of the construction, maintenance, and operation of the transmission lines and pipelines and restoring the property. The activities authorized by this subsection may be exercised only with the consent of and subject to the direction of the governing body of the district or water supply corporation.

(c) A person that is subject to Subsection (a) that acquires a right-of-way easement on real property for a public use may include in the notice of the acquisition a statement that to foster

the generation and transmission of electricity from clean coal projects as defined by Section 5.001, Water Code, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, water districts and water supply corporations may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along the rights-of-way and easements for the transmission of electricity that is generated by those projects and transportation of carbon dioxide and other greenhouse gases, unless the use:

(1) is incompatible with the public use for which the easement was acquired or condemned; or

(2) compromises public health or safety.

(d) This section applies only to a right-of-way or easement acquired by the district or water supply corporation on or after September 1, 2007.

(e) This section does not apply to a right-of-way or easement that is used for the transmission of electricity without the consent of a person owning the transmission lines if that use began before September 1, 2007.

SECTION 2.24. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or

partly in a county:

(1) that borders the Gulf of Mexico and the United Mexican States; or

(2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this

section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under commission rules, for the use and benefit of the municipal water supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.

(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

(1) make the water available under the same terms to all municipal water suppliers located in those counties; and

(2) advertise the offer to sell or contract for the use of the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the Rio Grande Regional Water Authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER

RIGHTS BY DISTRICT. (a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

(1) the commission approves the amendment to the district's water rights; or

(2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under Subsection (a)(2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed

the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section 49.505.

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use

water with a municipal use priority of allocation and may not exceed the sum of:

(1) an amount equal to the district's annual flat rate charge per assessed acre; and

(2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.

(d) The parties to the contract shall agree on the terms of payment of the contract price.

(e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.

(g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) The Rio Grande Regional Water Authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:

(1) a municipal water supplier;

(2) a party other than a municipal water supplier; and

(3) at least 100 acre-feet of municipal use water, with municipal priority of allocation.

(b) The Rio Grande Regional Water Authority shall use information from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The Rio Grande Regional Water Authority shall make the calculation:

(1) without charging any of the parties involved; and

(2) using 100 percent of the value of monetary exchanges, not in-kind exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) A district may request from a municipal water supplier a

map of the municipal water supplier's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

SECTION 2.25. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.969 to read as follows:

Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. The Texas Higher Education Coordinating Board shall encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down.

SECTION 2.26. Chapter 68, Education Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 68.21. SUSTAINABLE WATER SUPPLY RESEARCH CENTER. (a) In this section, "center" means the Sustainable Water Supply Research Center.

(b) The board may establish and operate the Sustainable Water Supply Research Center as part of The University of Texas at Arlington.

(c) If established, the center shall:

(1) conduct, sponsor, or direct multidisciplinary research directed toward:

(A) promoting water conservation through development of a sustainable water supply for this state; and

(B) mitigating the effect of diminishing water supplies on the economy and people of this state; and

(2) conduct a comprehensive, interdisciplinary instructional program in water conservation with emphasis on development of a sustainable water supply at the graduate level and offer undergraduate courses for students interested in water conservation and sustainable water supply development.

(d) The organization, control, and management of the center are vested in the board.

(e) The center may enter into an agreement or may cooperate with a public or private entity to perform the research functions of the center.

(f) The board may solicit, accept, and administer gifts and grants from any public or private source for the use and benefit of the center.

SECTION 2.27. Section 447.004, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The procedural standards adopted under this section must require that on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated into the design and construction of:

(1) each new state building with a roof measuring at least 10,000 square feet; and

(2) any other new state building for which the incorporation of such systems is feasible.

SECTION 2.28. Section 341.042, Health and Safety Code, is amended to read as follows:

Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The commission shall establish recommended standards relating to the domestic use of harvested rainwater, including health and safety standards for treatment and collection methods for harvested rainwater intended for drinking, cooking, or bathing.

(b) The commission by rule shall provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use:

(1) the structure must have appropriate cross-connection safeguards; and

(2) the rainwater harvesting system may be used only for nonpotable indoor purposes.

(c) Standards and rules adopted by the commission under this chapter governing public drinking water supply systems do not apply to a person:

(1) who harvests rainwater for domestic use; and

(2) whose property is not connected to a public drinking water supply system.

SECTION 2.29. Subsection (b), Section 212.0101, Local Government Code, is amended to read as follows:

(b) The Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application

under this section.

SECTION 2.30. Subsection (b), Section 232.0032, Local Government Code, is amended to read as follows:

(b) The Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 2.31. Chapter 401, Local Government Code, is amended by adding Section 401.006 to read as follows:

Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

SECTION 2.32. Subchapter Z, Chapter 402, Local Government Code, is amended by adding Section 402.911 to read as follows:

Sec. 402.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to an area:

(1) that is located in a county that has a population of more than 1.3 million; and

(2) in which a customer's sewer service is provided by a municipality or conservation and reclamation district that also provides water service to other customers and the same customer's water service is provided by another entity.

(b) For each person the water service provider serves in an area to which this section applies, the water service provider

shall provide the municipality or district with any relevant customer information so that the municipality or district may bill users of the sewer service directly and verify the water consumption of users. Relevant customer information provided under this section includes the name, address, and telephone number of the customer of the water service provider, the monthly meter readings of the customer, monthly consumption information, including any billing adjustments, and certain meter information, such as brand, model, age, and location.

(c) The municipality or district shall reimburse the water service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Incremental costs are limited to only those costs that are in addition to the water service provider's costs in providing its services to its customers, and those costs must be consistent with the costs incurred by other water utility providers. Only if requested by the wastewater provider, the water service provider must provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) A municipality or conservation and reclamation district may provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. The notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service. The

notice may be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) The municipality or district may notify the water service provider of a person who fails to make timely payment after the person receives notice under Subsection (d). The notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. On receipt of the notice, the water service provider shall discontinue water service to the person.

(f) This section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67, Water Code, or a district created under Chapter 65, Water Code.

SECTION 2.33. Section 430.003, Local Government Code, is amended to read as follows:

Sec. 430.003. EXEMPTIONS OF CERTAIN [~~STATE~~] PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or a public or private institution of higher education any fee charged for the development or maintenance of programs or [~~of~~] facilities for the control of excess water or storm water.

SECTION 2.34. Section 1903.053, Occupations Code, is amended to read as follows:

Sec. 1903.053. STANDARDS. (a) The commission shall adopt by rule and enforce standards governing:

(1) the connection of irrigation systems to any water supply;

(2) the design, installation, and operation of

irrigation systems;

(3) water conservation; and

(4) the duties and responsibilities of licensed irrigators.

(b) [~~The commission may adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.~~

[~~(c)~~] The commission may not require or prohibit the use of any irrigation system, component part, or equipment of any particular brand or manufacturer.

(c) In adopting standards under this section, the commission shall consult the council.

SECTION 2.35. (a) In this section, "board" means the Texas Water Development Board.

(b) The board, in coordination with the Far West Texas Regional Water Planning Group established pursuant to Section 16.053, Water Code, shall conduct a study regarding the possible impact of climate change on surface water supplies from the Rio Grande.

(c) In conducting the study, the board shall convene a conference within the Far West Texas regional water planning area designated pursuant to Section 16.053, Water Code, to review:

(1) any analysis conducted by a state located to the west of this state regarding the impact of climate change on surface water supplies in that state;

(2) any other current analysis of potential impacts of climate change on surface water resources; and

(3) recommendations for incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan, including potential impacts to the Rio Grande in Texas subject to the Rio Grande Compact and identification of feasible water management strategies to offset any potential impacts.

(d) The conference should include, but not be limited to, the participation of representatives of:

(1) the Far West Texas Regional Water Planning Group;

(2) water authorities;

(3) industrial customers;

(4) agricultural interests;

(5) municipalities;

(6) fishing or recreational interests;

(7) environmental advocacy organizations; and

(8) institutions of higher education.

(e) Not later than December 31, 2008, the board shall submit to the legislature a written report regarding the study findings under this section.

SECTION 2.36. (a) Chapter 9, Water Code, is repealed.

(b) The Texas Water Advisory Council is abolished on the effective date of this article.

SECTION 2.37. Chapter 64, Water Code, is repealed.

SECTION 2.38. As soon as practicable on or after the effective date of this article, the Texas Water Development Board shall appoint the initial members of the Water Conservation Advisory Council, as required by Section 10.003, Water Code, as added by this article. In making the initial appointments, the

board shall designate seven members to serve terms expiring August 31, 2009, eight members to serve terms expiring August 31, 2011, and eight members to serve terms expiring August 31, 2013.

SECTION 2.39. The changes made by this Act to Section 13.2451, Water Code, apply only to:

(1) an application for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act;

(2) a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after the effective date of this Act;

(3) a certificate of public convenience and necessity issued to a municipality, regardless of the date the certificate was issued;

(4) an application by a municipality or by a utility owned by a municipality for a certificate of public convenience and necessity or for an amendment to a certificate, regardless of the date the application was filed; and

(5) a proceeding to amend or revoke a certificate of public convenience and necessity held by a municipality or by a utility owned by a municipality, regardless of the date the proceeding was initiated.

SECTION 2.40. Sections 15.102 and 17.125, Water Code, as amended by this article, and Sections 15.9751 and 16.1311, Water Code, as added by this article, apply only to an application for financial assistance filed with the Texas Water Development Board

on or after the effective date of this article. An application for financial assistance filed before the effective date of this article is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 2.41. The change in law made by Subchapter O, Chapter 49, Water Code, as added by this Act, applies only to a subdivision for which a plat or map has been recorded in the office of the county clerk of a county on or after the effective date of this Act. A subdivision for which a plat or map was recorded before the effective date of this Act is covered by the law in effect on the date the plat or map was recorded, and the former law is continued in effect for that purpose.

SECTION 2.42. Not later than June 1, 2008, the Texas Commission on Environmental Quality shall adopt standards as required by Section 1903.053, Occupations Code, as amended by this article, to take effect January 1, 2009.

SECTION 2.43. Section 2.27 of this article, adding Subsection (c-1), Section 447.004, Government Code, takes effect September 1, 2009.

ARTICLE 3. CONSTRUCTION AND OPERATION OF RESERVOIRS

SECTION 3.01. Section 16.051, Water Code, is amended by adding Subsection (i) to read as follows:

<u>(i) For purposes of this section, the acquisition of fee title or an easement by a political subdivision for the purpose of providing retail public utility service to property in the reservoir site or allowing an owner of property in the reservoir</u>

site to improve or develop the property may not be considered a significant impairment that prevents the construction of a reservoir site under Subsection (g). A fee title or easement acquired under this subsection may not be considered the basis for preventing the future acquisition of land needed to construct a reservoir on a designated site.

SECTION 3.02. Subchapter E, Chapter 16, Water Code, is amended by adding Sections 16.143 and 16.144 to read as follows:

Sec. 16.143. OPTION TO LEASE. (a) A former owner of real property used for agricultural purposes that was acquired, voluntarily or through the exercise of the power of eminent domain, for a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) is entitled to lease the property from the person who acquired the property under terms that allow the former owner to continue to use the property for agricultural purposes until the person who acquired the property determines that such use must be terminated to allow for the physical construction of the reservoir. Consistent with Subsection (b), the lease is subject to the terms and conditions set forth by the person who has acquired the property that are related to the use of the property by the former owner, including the term of the lease, the rent the former owner is required to pay under the lease, and the uses that may be allowed on the property during the term of the lease.

(b) A former owner of real property used for agricultural purposes is entitled to lease the property for the property's agricultural rental value until the person who acquired the

property determines that the lease must be terminated to allow for the physical construction of the reservoir.

Sec. 16.144. ENVIRONMENTAL MITIGATION. (a) If a person proposing to construct a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) is required to mitigate future adverse environmental effects arising from the construction or operation of the reservoir or its related facilities, the person shall, if authorized by the applicable regulatory authority, attempt to mitigate those effects by offering to contract with and pay an amount of money to an owner of real property located outside of the reservoir site to maintain the property through an easement instead of acquiring the fee simple title to the property for that purpose.

(b) An owner of real property may reject an offer made under Subsection (a). If agreement on the terms of an easement under Subsection (a) cannot be reached by the parties after a good faith attempt and offer is made, then the party constructing the reservoir may obtain fee title to the property through voluntary or involuntary means.

ARTICLE 4. UNIQUE RESERVOIR SITES AND SITES OF UNIQUE ECOLOGICAL VALUE

SECTION 4.01. Section 16.051, Water Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) Notwithstanding any other provisions of law, a site is considered to be a designated site of unique value for the construction of a reservoir if the site is recommended for designation in the 2007 state water plan adopted by the board and in

effect on May 1, 2007. The designation of a unique reservoir site under this subsection terminates on September 1, 2015, unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law.

SECTION 4.02. DESIGNATION OF SITES OF UNIQUE ECOLOGICAL VALUE. The legislature, as authorized by Subsection (f), Section 16.051, Water Code, designates those river or stream segment sites recommended in the 2007 state water plan as being of unique ecological value.

SECTION 4.03. RESTRICTION ON ELIGIBILITY TO HOLD WATER RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS. (a) This section applies only to the proposed Marvin Nichols and Lake Fastrill reservoirs.

(b) The right to appropriate at least 20 percent of the quantity of water that is authorized to be appropriated from each proposed reservoir must be held by one or more entities located in the regional water planning area in which the reservoir is to be located.

(c) If one or more entities located outside the regional water planning area in which a proposed reservoir is to be located are to hold the right to appropriate a majority of the quantity of water that is authorized to be appropriated from the reservoir, that entity or those entities must pay all of the costs of constructing, operating, and maintaining the reservoir until such time as one or more entities located in the regional water planning

area in which the reservoir is to be located begins diverting water. At such time, the entity or entities making a diversion shall pay a pro-rata share of the cost of operating and maintaining the reservoir.

SECTION 4.04. STUDY COMMISSION ON REGION C WATER SUPPLY. (a) The Study Commission on Region C Water Supply is established. The study commission consists of six members as follows:

(1) three members appointed by the Region C Regional Water Planning Group; and

(2) three members appointed by the Region D Regional Water Planning Group.

(b) A member of the study commission may be, but is not required to be, a voting member of the regional water planning group that appointed the member.

(c) The members of the study commission shall select a presiding officer from among the members.

(d) Members of the study commission are not entitled to compensation for service on the study commission but may be reimbursed for travel expenses incurred while conducting the business of the study commission, as provided for in the General Appropriations Act.

(e) The study commission shall:

(1) review the water supply alternatives available to the Region C Regional Water Planning Area, including obtaining additional water supply from Wright Patman Lake, Toledo Bend Reservoir, Lake Texoma, Lake O' the Pines, other existing and proposed reservoirs, and groundwater;

(2) in connection with the review under Subdivision (1) of this subsection, analyze the socioeconomic effect on the area where the water supply is located that would result from the use of the water to meet the water needs of the Region C Regional Water Planning Area, including:

(A) the effects on landowners, agricultural and natural resources, businesses, industries, and taxing entities of different water management strategies; and

(B) in connection with the use by the Region C Regional Water Planning Area of water from Wright Patman Lake, the effect on water availability in that lake and the effect on industries relying on that water availability;

(3) determine whether water demand in the Region C Regional Water Planning Area may be reduced through additional conservation and reuse measures so as to postpone the need for additional water supplies;

(4) evaluate measures that would need to be taken to comply with the mitigation requirements of the United States Army Corps of Engineers in connection with any proposed new reservoirs, including identifying potential mitigation sites;

(5) consider whether the mitigation burden described by Subdivision (4) of this subsection may be shared by the Regions C and D Regional Water Planning Areas in proportion to the allocation to each region of water in any proposed reservoir;

(6) review innovative methods of compensation to affected property owners, including royalties for water stored on acquired properties and annual payments to landowners for

properties acquired for the construction of a reservoir to satisfy future water management strategies;

(7) evaluate the minimum number of surface acres required for the construction of proposed reservoirs in order to develop adequate water supply; and

(8) identify the locations of proposed reservoir sites and proposed mitigation sites, as applicable, as selected in accordance with existing state and federal law, in the Regions C and D Regional Water Planning Areas using satellite imagery with sufficient resolution to permit land ownership to be determined.

(f) The study commission may not be assisted by any person that is a party to or is employed by a party to a contract to perform engineering work with respect to site selection, permitting, design, or construction of the proposed Marvin Nichols reservoir.

(g) The Texas Water Development Board, on request of the study commission, may provide staff support or other assistance necessary to enable the study commission to carry out its duties. The Texas Water Development Board shall provide funding for the study commission, including funding of any studies conducted by the study commission, from the regional planning budget of the board.

(h) Not later than December 1, 2010, the study commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives that includes:

(1) any studies completed by the study commission;

(2) any legislation proposed by the study commission;

(3) a recommendation as to whether Marvin Nichols should remain a designated reservoir site; and

(4) other findings and recommendations of the study commission.

(i) The study commission is abolished and this section expires December 31, 2011.

SECTION 4.05. EFFECTIVE DATE. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 5. LEGISLATIVE JOINT INTERIM COMMITTEE

SECTION 5.01. (a) In this section, "committee" means the joint interim committee on state water funding.

(b) The committee is composed of eight members as follows:

(1) the chair of the Senate Committee on Natural Resources and the chair of the House Committee on Natural Resources who shall serve as joint chairs of the committee;

(2) three members of the senate appointed by the lieutenant governor; and

(3) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) An appointed member of the committee serves at the pleasure of the appointing official.

(d) The committee shall meet at least annually with the executive director of the Texas Commission on Environmental Quality and the executive administrator of the Texas Water Development Board to:

(1) receive information on water infrastructure needs as identified in the state water plan;

(2) receive information on infrastructure cost and funding options to be used by local entities to meet the needs identified in the state water plan;

(3) receive analyses of the funding gap and recommendations on how to address those funding needs;

(4) receive information on whether all water fees assessed are sufficient to support the required regulatory water-related state program functions and activities; and

(5) identify viable, sustainable, dedicated revenues and fee sources, or increases to existing revenue and fees, to support state water programs and to provide for natural resources data collection and dissemination, financial assistance programs, and water resources planning, including funding to implement water management strategies in the state water plan.

(e) The committee may hold hearings and may request reports and other information from state agencies as necessary to carry out this section.

(f) The Senate Committee on Natural Resources and the House Committee on Natural Resources shall provide staff necessary for the committee to fulfill its duties.

(g) Not later than December 1, 2008, the committee shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the committee's activities under Subsection (d) of this section. The report shall include recommendations of any legislative action necessary to address

funding needs to support the state's water programs and water infrastructure needs.

ARTICLE 6. WATER DEVELOPMENT BOARD

SECTION 6.01. Section 16.344, Water Code, is amended by adding Subsections (d) through (i) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after

consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d)-(f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) The board may not accept or grant applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Subsections (d), (e), (f), (g), and (h) and this subsection expire September 1, 2009.

ARTICLE 7. RATE CLASSES FOR BILLING

SECTION 7.01. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2122 to read as follows:

Sec. 49.2122. ESTABLISHMENT OF CUSTOMER CLASSES. (a) Notwithstanding any other law, a district may establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including:

(1) the similarity of the type of customer to other customers in the class, including:

(A) residential;

(B) commercial;

(C) industrial;

(D) apartment;

(E) rental housing;

(F) irrigation;

(G) homeowner associations;

(H) builder;

(I) out-of-district;

(J) nonprofit organization; and

(K) any other type of customer as determined by the district;

(2) the type of services provided to the customer class;

(3) the cost of facilities, operations, and administrative services to provide service to a particular class of customer, including additional costs to the district for security,

recreational facilities, or fire protection paid from other revenues; and

(4) the total revenues, including ad valorem tax revenues and connection fees, received by the district from a class of customers relative to the cost of service to the class of customers.

(b) A district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

ARTICLE 8. STUDY OF ROLE OF LAKE SOMERVILLE IN ECONOMIC DEVELOPMENT

SECTION 8.01. The legislature finds that:

(1) in 1954, the United States Congress authorized the construction of Lake Somerville to provide flood control, water conservation, and other beneficial uses for nearby areas; subsequently, the United States Army Corps of Engineers began reservoir construction in 1962 and began to impound water in 1967;

(2) straddling the borders of Burleson, Washington, and Lee Counties, on Yegua Creek 20 river miles upstream from that creek's confluence with the Brazos River, the lake has a storage capacity of 337,700 acre-feet;

(3) operation of the lake is supervised by the Fort Worth District of the United States Army Corps of Engineers; the lake is one of nine federal reservoirs that are integrated into the Brazos River Authority's basin-wide system and associated water resource development master plan;

(4) the Brazos River Authority owns the stored water,

a source from which it furnishes supplies to the City of Brenham according to a contract that was last renewed for a 10-year period in 2003;

(5) also significantly involved in the region is the Lower Colorado River Authority, which, from its diverse mix of power plants, provides wholesale electricity to various communities as well as offering them its economic research and expertise;

(6) although Lake Somerville has long been a tourist destination for fishing and other water recreation, the facility has not fully effectuated the three-county economic impact that originally was expected at the time that it was built; and

(7) a study of Lake Somerville's role in economic development would assist in explaining why the lake has not yet had that impact, beyond the tourism industry, and would help to identify impediments that currently restrict its contribution as well as strategies that would better maximize its economic potential.

SECTION 8.02. The Brazos River Authority and the Lower Colorado River Authority shall:

(1) conduct, with appropriate input from the public and private sectors, a joint baseline study of the role of Lake Somerville in the economic development of the surrounding vicinity; and

(2) jointly submit a full report of their findings and recommendations to the 81st Legislature when that legislature convenes in January 2009.

ARTICLE 9. AGUA SPECIAL UTILITY DISTRICT

SECTION 9.01. The heading to Chapter 7201, Special District Local Laws Code, is amended to read as follows:

CHAPTER 7201. AGUA [~~LA JOYA~~] SPECIAL UTILITY DISTRICT

SECTION 9.02. Section 7201.001, Special District Local Laws Code, is amended by amending Subdivision (3) and adding Subdivision (4) to read as follows:

(3) "Director" means a member of the board.

(4) "District" means the Agua [~~La Joya~~] Special Utility District.

SECTION 9.03. Subsection (c), Section 7201.002, Special District Local Laws Code, is amended to read as follows:

(c) The [~~On the effective date of the Act enacting this chapter, the~~] corporation shall be dissolved and succeeded without interruption by the district as provided by Subchapter A1.

SECTION 9.04. Section 7201.005, Special District Local Laws Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) The [~~boundaries of the corporation and initial boundaries of the~~] district is composed of the territory described by Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection [~~are coextensive with the service areas covered by Certificates of Convenience and Necessity Nos. 10559 and 20785, as recorded on the Texas Commission on Environmental Quality maps associated with those certificates. Those maps are incorporated in this section by reference~~].

(b) The boundaries and field notes contained in Section 9.12

of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection form a closure. A mistake made in the field notes or in copying the field notes in the legislative process [~~preparation, copying, or filing of the maps described by Subsection (a) and on file with the Texas Commission on Environmental Quality~~] does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to issue bonds; or

(3) the legality or operation of the district.

(d) The territory of the district does not include and the district does not have jurisdiction over land that has never been in the service area of the corporation regardless of any erroneous inclusion of that land in the boundaries and field notes in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section.

SECTION 9.05. Section 7201.021, Special District Local Laws Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (f) to read as follows:

(a) Except as provided by this subsection, after the appointment of initial directors under Section 7201.051, the receiver for the corporation [~~On the effective date of the Act enacting this chapter, the corporation~~] shall transfer the assets, debts, and contractual rights and obligations of the corporation, including all legal claims against the corporation in effect on the date of the transfer, to the district and provide notices and make recordings of the transfer required by the Water Code and general

law. If the transfer of any debt requires the permission of the lender, the receiver shall initiate proceedings to obtain that permission.

(b) In accordance with the orders of the receivership court and not [~~Not~~] later than the 30th day after the date of the transfer under Subsection (a), the receiver for [~~board of directors of~~] the corporation shall commence dissolution proceedings of the corporation.

(d) The receiver for [~~board of directors of~~] the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and its succession in interest by [~~the creation of~~] the district in order [~~to replace it~~] to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) After the Texas Commission on Environmental Quality takes the action required by Subsection (e), the court shall terminate the receivership.

SECTION 9.06. Section 7201.022, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012 [~~2008~~].

SECTION 9.07. Section 7201.051, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.051. APPOINTMENT OF INITIAL [~~TEMPORARY~~] DIRECTORS. (a) As soon as practicable after the effective date of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section, seven initial directors shall be appointed

as provided by this section [~~The directors of the corporation who hold office on the effective date of the Act enacting this chapter shall serve as the temporary directors of the district until successor directors are elected and qualify for office~~].

(b) To be eligible to be appointed as an initial director, an individual must meet the same requirements as a candidate for an elected position as director under Section 7201.052. The initial directors shall be appointed as follows:

(1) one director to represent the residents of the district in the City of Mission appointed by the governing body of that city;

(2) one director to represent the residents of the district in the City of Palmview appointed by the governing body of that city;

(3) one director to represent the residents of the district in the City of Penitas appointed by the governing body of that city;

(4) one director to represent the residents of the district in the City of Sullivan City appointed by the governing body of that city; and

(5) three directors to represent the residents of the district outside the municipalities listed in Subdivisions (1)-(4) appointed by the Hidalgo County Commissioners Court [~~The temporary directors of the district are assigned position numbers as follows:~~

[~~(1) Position 1, Jose Luis Trigo;~~

[~~(2) Position 2, Jose Guadalupe Reyna;~~

[~~(3) Position 3, George Barreiro;~~

[~~(4) Position 4, Frolian Ramirez;~~

[~~(5) Position 5, Russell Wicker;~~

[~~(6) Position 6, Benito Salinas;~~

[~~(7) Position 7, Manuel Ricardo Garcia;~~

[~~(8) Position 8, Valente Alaniz, Jr.; and~~

[~~(9) Position 9, Juan Lino Garza~~].

(c) An initial director serves a term that expires on June 1 of the year in which the director's successor is elected under Section 7201.052 [~~If there is a vacancy on the temporary board of directors of the district, the temporary board shall appoint a person to fill the vacancy for the remainder of the term for the vacated position until the applicable election under Section 7201.052~~].

SECTION 9.08. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.0512 and 7201.0513 to read as follows:

Sec. 7201.0512. INITIAL BOARD TRAINING. (a) Not later than the 60th day after the first date on which all of the initial directors have been appointed, each initial director shall complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation.

(b) The district shall reimburse an initial director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM. (a) Before the first election of directors under Section 7201.052, the initial board

shall establish a program of education for directors that includes information on:

(1) the history of the district;

(2) the district's enabling legislation;

(3) Chapters 49 and 65, Water Code, and other laws that apply to the district, including the requirements of the:

(A) open meetings law, Chapter 551, Government Code; and

(B) public information law, Chapter 552, Government Code;

(4) relevant legal developments related to water district governance;

(5) the duties and responsibilities of the board;

(6) the requirements of conflict of interest laws and other laws relating to public officials; and

(7) any applicable ethics policies adopted by the Texas Commission on Environmental Quality or the Texas Ethics Commission.

(b) The district shall pay any costs associated with the development of the education program from district revenue.

(c) The education program may include training provided by an organization offering courses that have been approved by the Texas Commission on Environmental Quality.

(d) The board may adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 9.09. Section 7201.052, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.052. BOARD OF DIRECTORS. (a) Except as provided by Subsection (l), the [~~The~~] district shall be governed by a board of seven [~~not fewer than nine and not more than 11~~] directors, elected as follows:

(1) one director elected by the voters of the part of the City of Mission inside the district to represent that part of the city;

(2) one director elected by the voters of the City of Palmview to represent that city;

(3) one director elected by the voters of the City of Penitas to represent that city;

(4) one director elected by the voters of the City of Sullivan City to represent that city; and

(5) three directors elected at-large to numbered positions on the board by the district voters who do not reside in any of the municipalities listed in Subdivisions (1)-(4) to represent the part of the district that is not included in those municipalities, unless the number of at-large directors is increased under Subsection (l) [~~in accordance with Section 49.103, Water Code, notwithstanding Subsection (f)(2) of that section~~].

(b) A [~~Except for a temporary director under Section 7201.051, a~~] candidate for one of the numbered [~~a position as~~] director positions:

(1) [~~is elected at large to represent the entire service area of the district;~~

[~~(2)~~] must reside in the part of the service area of the district that is not included in any of the municipalities

listed in Subsections (a)(1)-(4); and

(2) [~~(3)~~] must be eligible to hold office under Section 141.001, Election Code.

(c) A candidate for one of the director positions representing a municipality listed in Subsection (a)(1), (2), (3), or (4):

(1) must reside in the municipality the candidate seeks to represent; and

(2) must be eligible to hold office under Section 141.001, Election Code.

(d) It is the policy of the district that the directors shall represent and reside in as broad a cross-section of the geographic area of the district as possible.

(e) [~~(d)~~] The district shall fill a vacancy on the board in accordance with Section 49.105, Water Code.

(f) [~~(e)~~] Except for the initial [~~temporary~~] directors appointed [~~listed~~] under Section 7201.051 or elected at the first election under Subsection (g), directors serve staggered terms of four [~~three~~] years.

(g) [~~(f)~~] On the uniform election date in May 2008, or in May 2010, if the election is postponed under Subsection (h), the district shall hold an election to elect seven directors. On the [~~2006, and on that~~] uniform election date in May of each even-numbered [~~every third~~] year after that date, the district shall hold an election to elect the appropriate number of [~~three~~] directors [~~to serve in positions 1, 4, and 7~~].

(h) The initial board by order may postpone until the

uniform election date in May 2010 the first election for directors under Subsection (g) if the initial board determines that there is not sufficient time to comply with the requirements of law and to order the election of directors to be held on the first uniform election date specified by that subsection.

(i) The directors elected at the first election under Subsection (g) shall cast lots to determine which three directors shall serve terms expiring June 1 of the first even-numbered year after the year in which the directors are elected and which four directors shall serve terms expiring June 1 of the second even-numbered year after the year in which the directors are elected.

(j) A director may not serve consecutive terms.

(k) A person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

(l) If, before the expiration of the term of a director elected to represent a municipality under Subsection (a)(1), (2), (3), or (4), the district determines that all of the incorporated territory of the municipality is outside the boundaries of the district, the position immediately becomes an at-large numbered position to be filled at the next general election of the district in accordance with Subsections (a)(5) and (b) [~~(g) On the uniform election date in May 2007, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 2, 3, and 5.~~

[~~(h) On the uniform election date in May 2008, and on that~~

~~uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 6, 8, and 9~~].

SECTION 9.10. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.053 and 7201.054 to read as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) The board shall elect from among its members one director to serve as district treasurer.

(b) The district treasurer shall comply with the training requirements provided by Section 49.1571, Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Except for an initial director whose term expires in 2008, each director shall complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was appointed or elected.

(b) The district shall reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) A director who is elected to serve a subsequent term shall fulfill the education requirements specified by district bylaws.

SECTION 9.11. Section 7201.206, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.206. RATES AND FEES FOR SERVICES. (a) The district, in connection with water or sewer retail public utility

services, shall establish lifeline, senior citizen, or minimum consumption level rates for services. The rate impact of such services shall be allocated on the basis of costs of services to achieve conservation principles, while securing necessary reserves for the payment of operating expenses, sinking funds, principal, interest, and debt coverage factors, and any other objective established by the district's annual budget.

(b) Chapter 395, Local Government Code, does not apply to any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments.

(c) Notwithstanding Subsection (b), beginning on December 31, 2009, the district may not impose any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments unless the district readopts the fee, charge, or assessment or adopts a new fee, charge, or assessment in accordance with Chapter 395, Local Government Code. This subsection does not apply to a retail water or sewer rate adopted by the receiver or the district.

SECTION 9.12. (a) Except for the areas excluded under Subsection (b) of this section, the boundaries of the Agua Special Utility District are as follows:

Beginning at a point in the centerline of FM 495 (Mile 1 Road) a distance of approximately .18 miles west of the intersection of FM 495 and Inspiration Road.

Thence due north approximately 1.0 miles to a point approximately 166 feet south of the centerline of Mile 2 Road and approximately .18 miles west of the intersection of Mile 2 Road and Inspiration Road

Thence follow west along a straight westerly line approximately 180 feet south of Mile 2 Road approximately .51 miles to a point in the centerline of Schubach Road.

Following westerly in a straight line approximately .78 miles to the centerline of Bentsen Palm Drive.

From the point at the centerline of Bentsen Palm Road continue westerly approximately .78 miles to a point at 26 15 00 latitude and -98 22 10 longitude.

Turn right and due north and follow approximately 7.0 miles in a northerly direction .10 miles west and parallel to Bentsen Palm Drive to a point at 226 21 04 latitude and -98 21 06 longitude.

Turn left and follow westerly along a straight line a distance of approximately 1.66 miles to the intersection of Abram Road and 9 Mile Road.

Follow along the centerline of 9 Mile Road westerly approximately 1.65 miles to its intersection with Iowa Avenue. (Latitude: 26 21 31, Longitude: -98 24 16)

Continue westerly along a straight line from latitude 26 21 31, longitude -98 24 16 approximately 3.79 miles to the center line of FM 2221 (Jara Chinas Road)

Thence due south along FM 2221 (Jara Chinas Road) approximate distance of 8.02 Miles to a point approximately .75 miles north of the Intersection of Expressway 83 and FM 2221(Jara Chinas Road)

Thence at a distance of approximately .75 miles north of the centerline of Expressway 83 due west to northwest approximately 4 miles following along the same contour as Expressway 83 to the centerline of El Faro Road from a point .62 miles east of the intersection of El Faro Road and Expressway 83.

Turn right and follow due north down the centerline of El Faro Road until its end and continue northerly for a total of approximately 2.79 miles to a point at latitude 26 19 13 and longitude -98 32 40.

Turn left and follow northwesterly in a straight line along the east side of 16 Mile Road (Starr County) approximately 1.87 miles to a point located at 26 19 30 latitude and -98 34 27 longitude.

Turn right and follow northeasterly in a straight line approximately 1.02 miles to a point located at 26 20 22 latitude and -98 34 17 longitude.

Turn right and follow southeasterly in a straight line approximately 1.26 miles to a point located at 26 20 22 latitude and -98 33 05 longitude.

Turn right and follow northeasterly in a straight line along the west side of County Line Road (Starr County) approximately .61 miles to a point located at 26 20 43 latitude and -98 32 60 longitude.

Turn left and follow northwesterly in a straight line approximately 1.26 miles to a point located at 26 20 53 latitude and -98 34 12 longitude.

Turn right and follow northeasterly in a straight line along the east side of 16 Mile Road (Starr County) approximately 1.32 miles to a point located at 26 22 02 latitude and -98 33 59 longitude.

Turn left and follow northwesterly in a straight line approximately .55 miles to a point located at 26 22 07 latitude and -98 34 30 longitude.

Turn left and follow southwesterly in a straight line approximately 6.17 miles to a point located at 26 16 48 latitude and -98 35 29 longitude.

Turn left and follow southeasterly in a straight line approximately .91 miles to a point located at 26 16 30 latitude and -98 34 40 longitude, near the Hidalgo-Starr County line.

Turn right and follow southwesterly along the Hidalgo-Starr County line approximately 1.28 miles to its intersection with the Rio Grande River (U.S. side).

Thence due south approximately 7.77 miles to the northern winding banks (U.S. side) of the Rio Grande River

Thence east along the northern winding banks (US side) of the Rio Grande River approximately 22 miles to a point approximately 1.16 miles south of Greene Road

Thence from that center line on Bentsen Park Road approximately .82 miles east northeast to the centerline of Breyfogle/Shuerbach Road

Turn left and follow westerly in a straight line approximately .56 miles to a point located 26 11 20 latitude and -98 22 30 longitude.

Turn left and follow southerly in a straight line approximately .50 miles to the centerline of Miltary Road.

Turn right and follow northerly and then northwesterly along the north side of Military Road approximately .36 miles to its intersection with Farm-to-Market Road 2062.

Turn left and follow southerly along Farm-to-Market Road 2062 approximately .16 miles to a point located at 26 11 02 latitude and -98 22 46 longitude.

Turn right and follow northerly, westerly, southerly, southwesterly, northerly, westerly and then southwesterly for approximately 1.27 miles to a point located at 26 11 11 latitude and -98 23 38 longitude running just north of Park Road 43.

Turn right and follow northeasterly along a straight line for approximately .71 miles to the north side of Military Road.

Turn left and follow along westerly approximately .44 miles along the north side of Military Road to its intersection with Goodwin Road.

Turn right and follow northerly along the centerline of Goodwin Road approximately .33 miles to a point located at 26 12 07 latitude and -98 23 53 longitude.

Turn right and follow easterly, northerly, easterly and then southeasterly approximately .78 miles to the intersection with Green Road.

Turn left and follow northerly along the centerline of Green

Road approximately .32 miles.

Turn right and follow easterly and then southwesterly approximately 1.16 miles to the north side of Military Road at points 26 11 42 latitude and -98 23 16 longitude.

Turn left and follow southeasterly along the north side of Military Road approximately 0.07 miles to a point located at 26 11 40 latitude and -98 23 13 longitude.

Turn left and follow northeasterly, northerly, northeasterly, northerly, northeasterly, easterly, southerly and then easterly approximately 2.04 miles to the centerline of Shuebach Road/Airfield Road

Turn left and follow northeasterly along the centerline of Airfield Road approximately 1.48 miles to its intersection with U.S. Highway 83 Business.

Turn right and follow easterly along the centerline of U.S. Highway 83 Business approximately .27 miles to its intersection with Moorefield Road.

Turn left and follow northerly along the centerline of Moorefield Road approximately .32 miles to a point located at 26 13 23 latitude and -98 21 21 longitude.

Make a slight right and follow northeasterly and then northerly along the west banks of the Edinburg Main Canal approximately .66 miles to that point on the centerline of FM 495 the beginning (Mile 1 Road) a distance of approximately .18 miles west of the intersection of FM 495 and Inspiration Road to Close.

(b) The territory of the Agua Special Utility District does not include the area within the city limits of La Joya, Texas, as it

existed on January 1, 1991; the area within the Certificate of Convenience and Necessity of Hidalgo County Municipal Utility District No. 1 as reflected on the records of the Texas Commission on Environmental Quality as of January 1, 2007; and the area within the following boundary lines, which lie wholly within the district:

Beginning at a point located at 26 14 57 Latitude and -98 25 55 Longitude follow in a northwesterly direction along an unnamed creek approximately .23 Miles to a point located at 26 15 03 Latitude and -98 26 05 Longitude.

From the point located at 26 15 03 Latitude and -98 26 05 Longitude follow in a westerly direction along an unnamed creek approximately .24 Miles to a point located at 26 15 04 Latitude and -98 26 19 Longitude.

From the point located at 26 15 04 Latitude and -98 26 19 Longitude turn right and follow in a straight line northeasterly approximately .97 Miles to a point located at 26 15 54 Latitude and -98 26 09 Longitude.

From the point located at 26 15 54 Latitude and -98 26 09 Longitude turn right and follow in a straight line easterly-southeasterly approximately .43 Miles to a point located at 26 15 50 Latitude and -98 25 45 Longitude.

From a point located at 26 15 50 Latitude and -98 25 45 Longitude turn right and follow in a straight line southwesterly approximately 1.03 Miles to a point located at 26 14 57 Latitude and -98 25 55 Longitude and Place of Beginning.

SECTION 9.13. Initial directors of the board of the Agua Special Utility District shall be appointed in accordance with

Section 7201.051, Special District Local Laws Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 9.14. Except as otherwise provided by Chapter 7201, Special District Local Laws Code, as amended by this Act, the Agua Special Utility District is subject to:

(1) any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(2) any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that:

(A) results from a legal proceeding that is pending on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(B) is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act.

SECTION 9.15. (a) The legal notice of the intention to introduce the article of this Act that amends Chapter 7201, Special District Local Laws Code, setting forth the general substance of the article, has been published as provided by law, and the notice and a copy of the article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 9.16. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 10. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SECTION 10.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8269 to read as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8269.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the True Ranch Municipal Utility District No. 1.

Sec. 8269.002. NATURE OF DISTRICT. The district is a

municipal utility district in Hays County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8269.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8269.023 before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hays County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2015.

Sec. 8269.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property in the district will benefit from the works and projects to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

Sec. 8269.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 10.02 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 10.02 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the

legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the right of the district to issue bonds, notes, or other indebtedness or to pay the principal of and interest on a bond;

(4) the validity of the district's bonds, notes, or other indebtedness; or

(5) the legality or operation of the district or the board.

[Sections 8269.006-8269.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director, the vacancy shall be filled as provided by Section 49.105, Water Code.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8269.023; or

(2) the date this chapter expires under Section 8269.003.

Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Hays County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held under this section.

Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8269.023 shall draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8269.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION OF DIRECTORS. The board by order may postpone the first election under Section 8269.052 following the confirmation and initial directors' election held under Section 8269.023 if:

(1) the election would otherwise occur not later than

the 60th day after the date on which the confirmation election is held; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2015.

[Sections 8269.027-8269.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8269.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8269.053-8269.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8269.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8269.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the

district may construct, acquire, improve, maintain, or operate arterials or main feeder roads or improvements in aid of those roads.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all valid and applicable requirements of any ordinance or resolution adopted by a municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before September 1, 2007, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8269.105-8269.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8269.201(b), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an operation and maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8269.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8269.153-8269.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) The district may not issue bonds to finance projects authorized by Section 8269.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8269.103 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient

to:

(A) pay the interest on the bonds as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 10.02. The True Ranch Municipal Utility District No. 1 includes all the territory contained in the following area: BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAIM SURVEY, ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM LESLIE TRUE VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the southwest line of R.M. Highway No. 2325 and that tract described as an 80' R.O.W. in a deed from Cecil H. Hale, et al to the State of Texas dated August 29, 1956 and recorded in Volume 169, Page 304 of the Hays County Deed Records for the most northerly northwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract and east corner of that tract described as 592.30 acres in a deed from Leslie True Vesper et al to Ameritrust Texas, N.A., Trustee dated August 10, 1992 and recorded in Volume 949, Page 572 of the Hays County Official Public Records, from which a TXDOT concrete monument found bears N 69°45'42" W 162.75 feet;

THENCE leaving the Ameritrust Texas 592.30 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 24587-06-3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn & Associates, Inc., of San Marcos, Texas with the common northeast line of the Vesper 1279.69 acre tract and southwest line of R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract S 69°48'34" E 599.94 feet to a ½" iron rod set for the northwest corner of that tract described as "Tract 1-1.00 acres" in a deed from Thomas W. Slaughter et ux to Randy C. Brown et ux dated February 12, 1996 and recorded in Volume 1206, Page 780 of the Hays County Official Public Records, from which A TXDOT concrete monument found bears S 69°47'57" E 120.11 feet;

THENCE leaving R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract with the common east line of the Vesper 1279.69 acre tract and west and south lines of the Brown 1.00 acre Tract 1 the following two courses:

1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner post found for corner, and

S 69°41'58" E 234.42 feet to a 2" pipe fence corner post found in the west line of that tract described as "Tract 2-5.347 acres" in the previously mentioned deed to Randy C. Brown et ux for the southeast comer of the Brown 1.00 acre Tract 1;

THENCE leaving the Brown 1.00 acre Tract 1 and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Brown 5.347 acre Tract 2, as fenced and used, the following three courses:

S 00°10'12" E 410.74 feet to a ½" iron rod set at the

approximate centerline of an underground pipeline for angle point,

S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found for angle point, and

S 00°24'09" E 15.83 feet to an iron rod found with an aluminum cap stamped "Pro-Tech Eng" at fence corner for the southwest corner of the Brown 5.347 acre Tract 2 and northwest corner of the remaining portion of that tract described as 187.78 acres in a deed from Henry Polvado & Lillie Polvado to Wesley Springs dated May 6, 1983 and recorded in Volume 393, Page 570 of the Hays County Deed Records (the Brown 5.347 acre Tract 2 being a portion of the Springs 187.78 acre tract);

THENCE leaving the Brown 5.347 acre Tract 2 and continuing with the east line of the Vesper 1279.69 acre tract and west line of the Springs 187.78 acre tract, as fenced and used, the following three courses:

S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found for angle point,

S 00°06'57" W 908.05 feet to a 4" pipe fence corner post found for angle point, and

S 00°03'12" E 354.80 feet to a 4" pipe fence corner post found for the southwest corner of the springs 187.78 acre tract and northwest corner of that tract described as 126.97 acres in a deed from Stanual W. Farris to the Stanual W. Farris Living Trust dated March 10, 2005 and recorded in Volume 2646, Page 385 of the Hays County Official Public Records;

THENCE leaving the Springs 187.78 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west

line of Farris Living Trust 126.97 acre tract, as fenced and used, the following three courses:

S 00°12'25" W 952.36 feet to a 4" pipe fence post found for angle point,

S 00°09'57"W 1087.12 feet to a 4" cedar post found for angle point, and

S 00°22'11" W 1072.11 feet to a ½" iron rod found at fence corner for the southwest corner of the Farris Living Trust 126.97 acre tract and northwest corner of that tract described as 32.03 acres in a deed from Phil Harris to Shannon Harris dated April 8, 1998 and recorded in Volume 1463, Page 335 of the Hays County Official Public Records;

THENCE leaving the Farris Living Trust 126.97 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Shannon Harris 32.03 acre tract, as fenced and used, S 00°44'10"W 120.44 feet to a 4" cedar fence corner post found for the southwest corner of the Shannon Harris 32.03 acre tract and northwest corner of that tract described as 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris dated July 18, 1991 and recorded in Volume 882, page 620 of the Hays County Official Public Records;

THENCE leaving the Shannon Harris 32.03 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Philip D. Farris 28.92 acre tract, as fenced and used, S 00°24'02" W 279.19 feet to a ½" iron rod found at fence corner for the southeast corner of this description and northeast corner of that tract described as 52.30 acres in a deed

from Leslie True Vesper to Paul R. Eastup et ux dated June 5, 1996 and recorded in Volume 1240, Page 309 of the Hays County Official Public Records (the Eastup 52.30 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Phillip D. Farris 28.92 acre tract and entering the Vesper 1279.69 acre tract with the north line of the Eastup 52.30 acre tract, N 87°10'57" W 1356.38 feet to a ½" iron rod found in fence for the northwest corner of the Eastup 52.03 acre tract and northeast corner of that tract described as 209.16 acres in a deed from Leslie True Vesper to James Nicholas Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in Volume 2719, Page 740 of the Hays County Official Public Record (the Edwards 209.16 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Eastup 52.30 acre tract with the north line of the Edwards 209.16 acre tract, as fenced and used, the following five courses:

N 87°19'31" W 665.61 feet to a 4" pipe fence post found for angle point,

N 86°58'45" W 535.67 feet to a 3" cedar fence post found for angle point,

N 87°09'05" W 302.22 feet to a 3" cedar fence post found for angle point,

N 87°26'23" W 724.92 feet to a 4" cedar fence post found for angle point, and

N 86°46'01" W 426.90 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" in the east line of that tract described as 504.13 acres in a deed from Leslie True Vesper to James L. Pierce

and David L. Pierce dated February 8, 1999 and recorded in Volume 1500, Page 452 of the Hays County Official Public Records (the Pierce 504.13 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Edwards 209.16 acre tract with the east line of the Pierce 504.13 acre tract the following two courses:

N 08°19'22" E 124.79 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for corner, and

N 87°41'56" W 751.30 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the southwest corner of this description, an interior corner in the east line of the Pierce 504.13 acre tract, and the south corner of that tract described as 10.59 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated June 15, 2001 and recorded in Volume 1872, Page 802 of the Hays County Official Public Records (the Pierce 10.59 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Pierce 504.13 acre tract with the east line of Pierce 10.59 acre tract the following two courses:

N 05°37'42" E (being the bearing basis for description) 734.58 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for angle point, and

N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found in fence in the east line of the previously mentioned Pierce 504.13 acre tract for the north corner of the Pierce 10.59 acre tract;

THENCE leaving the Pierce 10.59 acre tract and continuing with the east line of the Pierce 504.13 acre tract, as fenced and used, the following eight courses:

N 20°34'38" E 42.67 feet to a 16" cedar tree stump found for angle point,

N 15°43'09" E 241.85 feet to a 12" cedar tree stump found for angle point,

N 08°41'46" E 86.90 feet to a 14" cedar tree stump found for angle point,

N 07°33'58" E 244.38 feet to a 2.5" pipe fence post found for angle point,

N 24°14'46" E 623.77 feet to a 6" cedar fence post found for angle point,

N 24°15'46" E 420.45 feet to a 2.5" pipe fence post found for angle point,

N 12°52'45" E 194.02 feet to a 2.5" pipe fence post found for angle point, and

N 01°30'08" E 340.55 feet to a 4" pipe fence corner post found in the south line of the previously mentioned Ameritrust Texas 592.30 acre tract and north line of the Vesper 1279.69 acre tract for the northeast corner of the Pierce 504.13 acre tract and exterior west corner of this description;

THENCE leaving the Pierce 504.13 acre tract with the common north line of the Vesper 1279.69 acre tract, and south line of the Ameritrust Texas 592.30 acre tract, as fenced and used, the following six courses:

N 73°32'00" E 130.18 feet to a 4" pipe fence post found for angle point,

S 48°36'36" E 170.02 feet to a ½" iron rod found for angle point,

S 76°17'07" E 88.03 feet to a 4" pipe fence post found for angle point,

S 86°44'44" E 798.24 feet to a 4" pipe fence post found for angle point,

S 86°55'19" E 913.16 feet to a 4" pipe fence post found for angle point, and

S 86°56'50" E 421.51 feet to a ½" iron rod found for the southeast corner of the Ameritrust Texas 592.30 acre tract and southwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract;

THENCE leaving the fence with the common west line of the panhandle portion of the Vesper 1279.69 acre tract and east line of the Ameritrust Texas 592.30 acre tract the following two courses:

N 00°00'32" E 1999.62 feet to a ½" iron rod found for angle point, and

N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.

THERE are contained within these metes and bounds 465.71 acres, more or less, as prepared from public records and surveys made on the ground in 1999, 2001, 2005 and on May 30, 2006 by Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey".

SECTION 10.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313,

Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 10.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 11. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SECTION 11.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8823 to read as follows:

CHAPTER 8823. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8823.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Tablerock Groundwater Conservation District.

Sec. 8823.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Coryell County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8823.003. CONFIRMATION ELECTION REQUIRED. (a) If the creation of the district is not confirmed at a confirmation election held before September 1, 2012:

(1) the district is dissolved on September 1, 2012, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Coryell County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

(b) This section expires September 1, 2012.

Sec. 8823.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Coryell County, Texas.

Sec. 8823.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8823.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8823.007-8823.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8823.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this chapter, five temporary directors shall be appointed as follows:

(1) the Coryell County Commissioners Court shall appoint one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of Coryell County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board, the authority who appointed the temporary director whose position is vacant shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8823.024; or

(2) the date this chapter expires under Section 8823.003.

Sec. 8823.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be

at the Coryell County Courthouse.

Sec. 8823.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(i), Water Code, and the Election Code. Section 36.017(d), Water Code, does not apply to the confirmation election.

(d) The ballot for the election must be printed in accordance with the Election Code and provide for voting for or against the proposition: "The creation of the Tablerock Groundwater Conservation District and the imposition of a maintenance tax at a rate not to exceed two cents on each $100 of assessed valuation of taxable property in the district."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may hold a subsequent confirmation election. The subsequent election may not be held before the first anniversary of the date on which the previous election was held.

(f) The district may not impose a maintenance tax unless a majority of the votes cast at the election are in favor of the imposition of the maintenance tax.

Sec. 8823.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8823.023, the temporary directors become the initial directors and serve for

the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve until the election of directors under Section 8823.025, and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve until the next regularly scheduled election of directors under Section 8823.053.

Sec. 8823.025. INITIAL ELECTION OF DIRECTORS. On the uniform election date in November of the first even-numbered year after the year in which the creation of the district is confirmed at an election held under Section 8823.023, the district shall hold an election of two directors to replace the initial directors who, under Section 8823.024(b), serve until that election.

Sec. 8823.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8823.027-8823.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8823.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8823.052. METHOD OF ELECTING DIRECTORS. One director is elected from each county commissioners precinct in Coryell County and one director is elected at large.

Sec. 8823.053. ELECTION DATE. The district shall hold an election in the district to elect directors on the uniform election date in November of each even-numbered year.

Sec. 8823.054. QUALIFICATIONS FOR ELECTION. (a) To be

qualified for election as a director, a person must reside in the district.

(b) To be qualified for election as a director from a precinct, a person must reside in that precinct.

[Sections 8823.055-8823.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8823.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8823.102. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8823.103. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the

district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8823.104. ADOPTION OF RULES AND ISSUANCE OF PERMITS. Before the district adopts a management plan, the district may adopt rules and issue permits.

Sec. 8823.105. CONTRACTS WITH OTHER GOVERNMENTAL ENTITIES. (a) The district and another governmental entity, including a river authority located in the district, may contract for the performance by that entity of a district function.

(b) The district may accept a loan from Coryell County to pay for any initial costs of the district, including costs related to a confirmation election.

Sec. 8823.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8823.107. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to Coryell County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the Texas Commission on Environmental Quality determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

[Sections 8823.108-8823.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8823.151. REVENUE. To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) impose an ad valorem tax at a rate that:

(A) is approved by a majority of district voters voting at an election held for that purpose; and

(B) does not exceed two cents on each $100 of assessed valuation of taxable property in the district;

(2) assess fees for services or for water withdrawn from nonexempt wells; or

(3) solicit and accept grants from any private or public source.

[Sections 8823.152-8823.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 8823.201. ELECTION FOR DISSOLUTION. (a) If the district has no outstanding bond or other long-term indebtedness, the district may be dissolved by a favorable vote of a majority of the registered voters of the district at an election held for that

purpose.

(b) The board shall hold a dissolution election if the board receives a petition for dissolution signed by at least 50 percent of the registered voters in the district as computed by using the list of registered voters for Coryell County.

(c) If the district is dissolved under this section, the board shall:

(1) notify the Texas Commission on Environmental Quality and the secretary of state of the dissolution; and

(2) transfer title to any assets of the district to Coryell County.

SECTION 11.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are

fulfilled and accomplished.

ARTICLE 12. EDWARDS AQUIFER AUTHORITY

SECTION 12.01. Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) to read as follows:

(f) The authority may own, finance, design, [~~contract with a person who uses water from the aquifer for the authority or that person to~~] construct, operate, or [~~own, finance, and~~] maintain recharge [~~water supply~~] facilities. [~~Management fees or special fees may not be used for purchasing or operating these facilities.~~] For the purpose of this subsection, "recharge [~~water supply~~] facility" means [~~includes~~] a dam, reservoir, [~~treatment facility, transmission facility,~~] or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(f-1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain recharge facilities to:

(1) each groundwater conservation district in the area in which the recharge facility will be located;

(2) the mayor of each municipality in the area in which the recharge facility will be located;

(3) the county judge of each county in the area in which the recharge facility will be located; and

(4) each member of the legislature who represents the area in which the proposed recharge facility will be located.

(f-2) Any entity within the county in which a recharge facility is to be constructed shall be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain the recharge facility.

SECTION 12.02. Subsections (a), (c), (e), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

(1) protect the water quality of the aquifer;

(2) protect the water quality of the surface streams to which the aquifer provides springflow;

(3) achieve water conservation;

(4) maximize the beneficial use of water available for withdrawal from the aquifer;

(5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;

(6) protect aquatic and wildlife habitat;

(7) [~~(6)~~] protect species that are designated as threatened or endangered under applicable federal or state law; and

(8) [~~(7)~~] provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections [~~(d),~~] (f)[~~,~~] and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from

the aquifer may not exceed or be less than 572,000 [~~400,000~~] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [~~additional water as provided by Subsection (d) and then on an interruptible basis~~].

(f) If the level of the aquifer is equal to or greater than 660 [~~650~~] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. [~~The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.~~]

(h) To accomplish the purposes of this article, [~~by June 1, 1994,~~] the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this

article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased adjustments to [~~reductions in~~] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION 12.03. Subsection (g), Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or[~~,~~] cancelled[~~, or retired~~].

SECTION 12.04. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 [~~665~~] feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section

1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION 12.05. Subsection (a), Section 1.22, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale [~~or retirement as a means of complying with pumping reduction requirements under this article; or~~

[~~(4) retiring those rights, including those rights already permitted~~].

SECTION 12.06. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [~~The~~] authority by rule shall adopt [~~prepare and coordinate implementation of~~] a [~~plan~~

~~for~~] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [~~on or before September 1, 1995~~]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [~~mechanisms~~] must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; [~~and~~]

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to

permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1

CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE SAN ANTONIO POOL

Comal Springs Flow cfs	San Marcos Springs Flow cfs	Index Well J-17 Level MSL	Critical Period Stage	Withdrawal Reduction-San Antonio Pool
<225	<96	<660	I	20%
<200	<80	<650	II	30%
<150	N/A	<640	III	35%
<100	N/A	<630	IV	40%

TABLE 2

CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE UVALDE POOL

Withdrawal Reduction-Uvalde Pool	Index Well J-27 Level MSL	Critical Period Stage
N/A	---	I
5%	<850	II
20%	<845	III
35%	<842	IV

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs

or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for federally listed threatened and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal

Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

(1) listed as threatened or endangered species under federal law; and

(2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement

with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders, not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of

this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee;

(J) Bexar County;

(K) CPS Energy; and

(L) Bexar Metropolitan Water District or its successor; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

(f) The steering committee shall work with Texas A&M University to:

(1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

(h) Where reasonably practicable or as required by law, any

meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and

aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

(l) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area

expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made

available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by

Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION 12.07. Subsections (b), (h), and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [~~52~~], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund

the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements [~~Special fees collected under Subsection (c) or (d) of this section may not be used to finance a surface water supply reservoir project~~].

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary[~~, but not to exceed five percent of the money collected under Subsection (d) of this section,~~] to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to $75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 12.08. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [~~build or~~] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [~~and~~] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION 12.09. Subsections (b) and (d), Section 1.14, Section 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION 12.10. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

(1) the validity or implementation of this article; or

(2) the groundwater withdrawal amounts recognized in Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended by this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 12.11. The change in law made by this article applies only to a cause of action filed on or after the effective date of this article. A cause of action that is filed before the effective date of this article is governed by the law in effect

immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 12.12. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 13. TERRITORY OF CULBERSON COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION 13.01. Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 3A to read as follows:

Sec. 3A. In addition to the portions of Culberson County included in the boundaries of the district on August 31, 2007, the boundaries of the district include all of the remaining territory in Culberson County.

SECTION 13.02. (a) The annexation under Section 3A, Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, as added by this article, of the additional territory in Culberson County that was not included in the boundaries of the Culberson County Groundwater Conservation District on August 31, 2007, is subject to ratification at an election held under Section 36.328, Water Code, and this section in which only the voters residing in the territory to be annexed are eligible to vote.

(b) The board of directors of the Culberson County Groundwater Conservation District shall hold the ratification election on the first uniform election date that occurs after the

effective date of this article that allows for compliance with the time requirements of the Election Code.

(c) If a majority of the voters voting at the ratification election vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries include all of Culberson County.

(d) If a majority of the voters voting at the ratification election do not vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries are unchanged and this article expires.

ARTICLE 14. EFFECTIVE DATE

SECTION 14.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 3 passed the Senate on March 27, 2007, by the following vote: Yeas 30, Nays 0; May 24, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 3 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 133, Nays 8, one present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 28, 2007, House adopted Conference Committee Report by the following vote: Yeas 113, Nays 28, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor