

**SUBCHAPTER D: CONTESTED CASE HEARING**  
**§§295.171 - 295.177**  
**Effective August 28, 2014**

**§295.171. Request for Contested Case Hearing.**

A request for contested case hearing on an application for a water use permit or amendment made by the applicant, the executive director, or an affected person who objects to the application must be made in writing, must comply with the requirements of Chapter 55, Subchapter G, of this title (relating to Requests for Reconsideration and Contested Case Hearings; Public Comment), and specifically §55.251 of this title (relating to Requests for Contested Case Hearing, Public Comment), and must be submitted to the commission within 30 days after the publication of the notice of application. The commission may extend the time allowed for submitting a request for contested case hearing.

Adopted August 9, 2006

Effective August 31, 2006

**§295.172. Contested Case Hearing.**

The commission may conduct a contested case hearing on any application. If the commission has received a request for a contested case hearing, which it determines is in compliance with §55.251 and §55.255 of this title (relating to Requests for Contested Case Hearing, Public Comment; and Commission Action on Hearing Request), if it determines that a contested case hearing would serve the public interest, or if a commissioner requests a contested case hearing, the commission shall conduct a contested case hearing or refer the matter to the State Office of Administrative Hearings for a contested case hearing. See §295.157 of this title (relating to Notice of Hearing).

Adopted August 9, 2006

Effective August 31, 2006

**§295.173. Action on Application Without Contested Case Hearing.**

The commission may take action on an application requiring public notice at a regular meeting, without holding a contested case hearing, provided:

(1) at least 30 days prior to the regular meeting at which action is taken, notice of the application has been given by publication and by mail and:

(A) no person has requested a contested case hearing within 30 days of the publication of notice or within any extension of that period authorized by the commission; or

(B) the commission has denied all timely filed hearing requests for failing to meet applicable requirements; and

(2) no commissioner has submitted a request for a contested case hearing within the 30-day period after publication of the notice or requests a contested case hearing at the regular meeting of the commission at which action on the application could be taken according to such notice.

**§295.174. Applications for Temporary Permits, Emergency Permits, and Authorization to Divert Water From Un-sponsored and Storage-Limited Projects for Domestic and Livestock Purposes.**

The sections in this subchapter relating to requests for contested case hearings and the requirements to hold contested case hearings in certain circumstances do not apply to applications for temporary water use permits, emergency water use permits, or authorization to divert water from un-sponsored and storage-limited projects for domestic and livestock purposes. In these specified instances, the commission may conduct such hearings as it deems appropriate. However, the commission shall conduct a hearing on a temporary permit if it has been provisionally issued and if the permit has been cancelled upon request of the executive director under §295.181 of this title (relating to Provisional Disposition of Application for Temporary Permit).

Adopted August 9, 2006

Effective August 31, 2006

**§295.175. Cancellation of Water Rights.**

The commission shall conduct a hearing to determine whether a water right should be cancelled, in whole or in part, under the Texas Water Code, §§11.171 - 11.186 if the executive director requests such a hearing. A hearing under the Texas Water Code, §11.146, is required in order to determine whether a permit has been or should be forfeited and cancelled in whole or in part for failure of the permittee to commence or complete construction, unless permittee executes a form abandoning all rights under the permit and waiving rights to notice and hearing thereon. No hearing is required if the water right holder executes a form abandoning all rights under the water right and waiving the right to notice and hearing.

**§295.176. Public Hearing on Application for Local Sponsor Designation.**

After a local sponsor application is filed with the commission, the chief clerk shall issue a notice of public hearing to be published by the applicant or his agent in a newspaper having general circulation in that section of the state where the project is proposed to be located. After notice, the commission shall hold a public hearing to consider applications for local sponsor designations. Any interested party may appear and be heard for or against an applicant being designated as local sponsor of

a project. After notice and hearing, the commission shall grant or reject the application and shall state its reasons. The commission may designate co-sponsors for the project, or it may grant one application and deny others.

**§295.177. Evidentiary Hearing on Interbasin Transfer Amendments.**

An evidentiary hearing on an application to transfer water authorized under an existing water right is limited to considering issues related to the requirements of Texas Water Code, §11.085.

Adopted August 6, 2014

Effective August 28, 2014