

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend §§295.13, 295.155, and 295.161; and also proposes new §295.114.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

In 2009, the 81st Legislature passed House Bill (HB) 4231, relating to the conveyance or transfer in Texas of water imported into Texas from a source located outside the state. HB 4231 amends Texas Water Code (TWC), §11.042 and §11.085. TWC, §11.042 is amended to add §11.042(a-1), which authorizes the use of the bed and banks of a stream in Texas to convey water imported from a source located wholly outside of the state. TWC, §11.085 is amended to add §11.085(v)(5), which provides an exemption from the requirements of TWC, §11.085(b) - (u) for water imported from a source located wholly outside of the state. The commission's procedural rules related to water rights are in Chapter 295.

In a corresponding rulemaking published in this issue of the *Texas Register*, the commission proposes to also amend 30 TAC Chapter 297, Water Rights, Substantive.

SECTION BY SECTION DISCUSSION

The commission proposes to amend §295.13, Interbasin Transfers, to add §295.13(c)(5), which grants an exemption from the application requirements in §295.13(b) for transfers of imported water into Texas.

Proposed §295.13(c)(1) is amended to correct the title of the reference to §297.17.

Proposed §295.13(c)(5) reflects the new TWC, §11.085(v)(5) created by HB 4231.

The commission proposes new §295.114, Application to Convey Imported Water in Bed and Banks, to define the application requirements for an application under TWC, §11.042(a-1). These requirements are necessary to provide an applications process for a bed and banks authorization for imported water.

Proposed new §295.114(a) indicates that the purpose of §295.114 is to provide the application content requirements for a bed and banks authorization under TWC, §11.042(a-1).

Proposed new §295.114(b) lists the application requirements for a bed and banks authorization under TWC, §11.042(a-1).

Proposed new §295.114(b)(1) requires the applicant to provide their name, mailing address, and telephone number. This information is necessary for agency staff to be able to contact the applicant.

Proposed new §295.114(b)(2) requires the applicant to provide the name of the stream and the locations of the point of discharge and diversion as identified on a United States Geological Survey 7.5 minute topographical map(s). This information is necessary for the agency to know where the imported water will be transported, and to be better able to manage the waters of the state.

Proposed new §295.114(b)(3) requires the applicant to indicate the source, amount, and rates of discharge and diversion. This information is necessary for the agency to calculate any water losses that may result from the bed and banks transfer.

Proposed new §295.114(b)(4) requires the applicant to provide a description of the water quality of the

water discharged and, if applicable, the permit number and name of any related discharge permit. This information is necessary for the agency to ensure that there will be no significant impact to the water quality of the river by the bed and banks transfer.

Proposed new §295.114(b)(5) requires the applicant to provide a copy of the legal authorization for the imported water from the source state. This information is necessary for the agency to know that it is issuing a valid authorization for water from another state.

Proposed new §295.114(b)(6) requires the applicant to indicate the estimated amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses from the point of discharge to the point of diversion. This information is necessary for the agency to calculate any water losses that may result from the bed and banks transfer.

Proposed new §295.114(b)(7) requires the applicant to provide an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow needs.

Proposed new §295.114(b)(8) requires the applicant to provide an accounting plan demonstrating that no state water will be diverted under this rule. This information is necessary to ensure that the applicant is only taking water imported from another state, and no state water is being taken without authorization.

Proposed new §295.114(b)(9) requires the applicant to provide any other information the executive director may need to complete an analysis of the application.

Proposed new §295.114(c) indicates that nothing in §295.114 shall be construed to affect an existing project for which all required water rights and reuse authorizations have been granted by the commission prior to September 1, 1997. This language is necessary to be consistent with TWC, §11.042(d) and §295.112 and §295.113.

Proposed new §295.114(d) indicates that the method and calculation of carriage losses under §295.114 is subject to the review and approval of the executive director. This language is necessary to be consistent with §295.112.

The commission proposes to amend §295.155, Notice for Interbasin Transfers, to add an exemption for imported water from its requirements. Proposed §295.155(a) will add subsection (d)(5) to this list of subsections exempt from §295.155 requirements. This change is necessary to reflect new TWC, §11.085(v)(5).

Proposed §295.155(d)(5) will grant an exemption from the notice requirements defined in §295.155(b). This change is also necessary to comply with new TWC, §11.085(v)(5).

Proposed §295.155(d)(2) is amended to correct the title of the reference to §297.17.

The commission proposes to amend §295.161, Notice of Application to Convey Water in Bed and Banks, to add imported water to the types of water to which it applies. Proposed §295.161(a) will add imported water to the list of types of water excepted from its requirements. Proposed §295.161(b) will add

imported water, pursuant to TWC, §11.042(a-1), to the types of water to which it applies. These changes are necessary to comply with new TWC, §11.042(a-1). Proposed §295.161(f) will correct a statutory reference.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

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

The proposed rules implement the provisions of HB 4231, which provides for the ability to use the bed and banks of a stream in Texas to import water from outside the state's boundaries, except for water from Mexico. The proposed rules amend Chapters 295 and 297 of the Texas Administrative Code. This fiscal note details the fiscal implication of proposed amendments to Chapter 295, and the fiscal impact of amendments to Chapter 297 are detailed in a separate fiscal note.

The proposed rules define the application requirements for a bed and banks authorization for conveyance of imported water, specify the application content, and specify notice requirements for conveyance of imported water. In addition, the proposed rules exempt such imported water from most of the current requirements of an interbasin transfer.

The number of applications for a bed and banks authorization to convey imported water is expected to be small due to expected high costs of buying water outside the state. Local governments that might import

water from outside the state include river authorities, municipalities, and various types of water districts. If a local government applies for a bed and banks authorization for conveyance of imported water, it will be subject to the existing application fees of Chapter 295. These one time fees could range from \$100 to \$1,000 depending on the volume of water.

The proposed rules will require limited notice for the application for a bed and banks authorization for conveyance of imported water and exempt imported water from the notice requirements regarding interbasin transfers. Notice for an application for a bed and banks transfer for the conveyance of imported water only requires that diverters of record on the watercourse between proposed points of discharge and diversion be notified, and this type of notice could cost as much as \$3.00 per notice to mail to the required parties.

The proposed rules are not expected to have a significant fiscal impact on local governments since they are expected to use existing staff or outside professionals used during their normal course of business when preparing an application for a bed and banks authorization for conveyance of imported water. Also, applications for this authorization are expected to occur in conjunction with requests to amend existing water rights, so additional effort and cost is expected to be minimal. Local governments could also recoup any cost increases they might experience by increasing rates charged to customers.

PUBLIC BENEFITS AND COSTS

Nina Chamness 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 the ability to import water into the state using the bed and banks of a stream in Texas to ensure adequate water supply and

efficient delivery of water for the use of the citizens of the state.

The number of applications to import water is expected to be small, and these applications are expected to occur in conjunction with requests to amend existing water rights. No large businesses are known to have an interest in importing water from other states. If a large business does decide to import water into the state using the bed and banks of a stream in Texas, it will be subject to the same application fee and notification requirement as a local government, and any costs associated with the proposed rules will be the same as those incurred by a local government. Customers may experience higher costs for imported water depending on market rates at the time if the business decides to pass that cost on to its customer base. However, the ability to import water into the state will allow access to a water supply if conditions require the use of water from outside the state.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposed rules. The proposed rules are intended to enhance the ability to import water into the state using the bed and banks of a stream. At this time, no small businesses are known to have an interest in importing water from other states. Also, small businesses that provide water typically purchase their water supply from another provider, and they are not expected to apply for authorizations to import water themselves.

SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required to comply with state law and do not adversely affect a small or micro-business in a material way for the first five years that the proposed

rules are in effect.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission 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 the proposed rules and performed an analysis of whether the proposed rules require a regulatory impact analysis under Texas Government Code, §2001.0225. The proposed rules are not a "major environmental rule" under Texas Government Code, §2001.0225. The purpose of the rulemaking is to implement HB 4231 to authorize with prior authorization from the TCEQ, the use of the bed and banks of a stream in Texas to convey water imported from a source located wholly outside of the state and to exempt those transfers from the requirements of TWC, §11.085. The specific intent of allowing the use of the bed and banks of a river to convey water from out of state and exempting the transfer from interbasin transfer requirements is not to protect the environment or reduce risks to human health from environmental exposure, and the rulemaking does not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, or the public health and safety of the state or a sector of the state sources. These proposed rules in Chapter 295 are procedural requirements for these authorizations. Also, these rules do not exceed a standard set by federal law not required by state law, exceed an express requirement of state law, exceed a requirement of a federal delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program, and are not being proposed solely under the general powers of the agency

instead of under a specific state law. Therefore, no regulatory impact analysis is required under Texas Government Code, §2001.0225 for this rulemaking.

The commission invites public comment regarding this draft regulatory impact analysis determination. 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 the proposed rules and performed an analysis of whether the proposed rules constitute a taking under Texas Government Code, Chapter 2007. The specific purpose of the proposed rules is to establish procedural requirements to implement HB 4231, which authorizes, with prior authorization from the TCEQ, the use of the bed and banks of a stream in Texas to convey water imported from a source located wholly outside of the state, and the exemption of those transfers from interbasin transfer requirements in TWC, §11.085. The proposed rules would substantially advance this stated purpose by establishing procedural requirements for obtaining these authorizations. The addition of the exemption from interbasin transfer requirements for this transfer does not impact real property rights. Promulgation and enforcement of the proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally) nor restrict or limit the owner's right to property and reduce its value by 25 percent or more beyond that which would otherwise exist in the absence of the regulations. The use of the bed and banks of state watercourses to transport water is already authorized by state law for in-state water. There are no other reasonable or practicable alternatives to this rulemaking because it is required by statute.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rule, 31 TAC §505.11(b)(4), relating to Actions and Rules Subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the rulemaking is consistent with CMP goals and policies because the rulemaking is unlikely to be of environmental significance to the coastal natural resource areas.

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 January 5, 2010 at 10:00 a.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 Charlotte Horn, Office of Legal Services at (512) 239-0779. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments may be submitted to Patricia Duron, 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.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2009-040-295-PR. The comment period closes January 11, 2010. Copies of the proposed rulemaking can be obtained from the commission's Web site at http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information, please contact Ron Ellis, Water Supply Division, (512) 239-1282.

**SUBCHAPTER A: REQUIREMENTS OF WATER RIGHTS APPLICATIONS GENERAL
PROVISIONS**

DIVISION 1: GENERAL REQUIREMENTS

§295.13

STATUTORY AUTHORITY

The amendment 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 amendment is also proposed under TWC, §11.085(v)(5), which exempts from the interbasin transfer requirements of TWC, §11.085 transfers of water from out of state into this state using the bed and banks of any flowing natural stream located in this state.

The proposed amendment implements TWC, §11.085(v)(5).

§295.13. Interbasin Transfers.

(a) An applicant seeking to transfer state water from one basin to another basin shall so state in the application. For purposes of this section, a river basin is defined and designated by the Texas Water Development Board by rule pursuant to Texas Water Code (TWC), §16.051. The application content requirements contained in this chapter for a new or amended water right, as applicable, shall apply to all applications for an interbasin transfer unless otherwise provided.

(b) In addition to the application requirements for a new or amended water right contained in this chapter, the application must also include the following unless exempted by subsection (c) of this section:

(1) the contract price of the water to be transferred;

(2) a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;

(3) the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users;

(4) the projected effect on user rates and fees for each class of ratepayers;

(5) an analysis of whether and to what extent there is the need for the water in the basin of origin and in the proposed receiving basin based upon the period for which the transfer is requested, but not to exceed 50 years;

(6) factors identified in the applicable approved regional water plans which address the following (Regional water management plans must be submitted to the Texas Water Development Board for review and approval not later than September 1, 2000. If applicable approved regional water management plans do not exist at the time the application is submitted, the following information under this paragraph is not required to be submitted.):

(A) an analysis of the availability of feasible and practicable alternative supplies in the receiving basin for which the water is needed;

(B) the amount and purposes of use in the receiving basin for which the water is needed;

(C) the proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;

(D) the proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;

(E) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and

(F) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under TWC, §§11.147, 11.150, and 11.152 and related commission rules contained in §§297.49 - 297.52 of this title (relating to Return and Surplus Waters, Consideration of Water Conservation Plans, Time Limitations for Commencement or Completion of Construction, Suppliers of Water for Agriculture) in each basin. If the water sought to be transferred is currently authorized to be used under an existing water right, such impacts shall only be considered in relation to that portion of the water right proposed for transfer and shall be based on historical uses of the water right

for which amendment is sought.

(7) proposed mitigation or compensation, if any, to the basin of origin by the applicant;

(8) the continued need to use the water for the purposes authorized under the existing water right if an amendment to an existing water right is being sought; and

(9) any other related information the executive director or commission may require to review the application to make recommendation or determine, as applicable, whether it meets all applicable requirements of the TWC or other applicable law.

(c) Subsection (b) of this section shall not apply to:

(1) a proposed transfer which in combination with any existing transfers totals less than 3,000 acre-feet of water per annum from the same water right;

(2) a request for an emergency transfer of water under §297.17 of this title (relating to Emergency Authorization [Authorizations] (Texas Water Code, §11.139));

(3) a proposed transfer from a basin to its adjoining coastal basin; [or]

(4) a proposed transfer from a basin to a county or municipality or the municipality's retail service area that is partially within the basin for use in that part of the county or municipality and

the municipality's retail service area not within the basin. For purposes of this paragraph, a county, municipality, or municipality's service area refers to a geographic area; or.]

(5) a proposed transfer of water that is:

(A) imported from a source located wholly outside the boundaries of this state, except water that is imported from a source located in the United Mexican States;

(B) for use in this state; and

(C) transported by using the bed and banks of any flowing natural stream in this state.

**SUBCHAPTER A: REQUIREMENTS OF WATER RIGHTS APPLICATIONS GENERAL
PROVISIONS**

**DIVISION 11: REQUIREMENTS FOR APPLICATIONS FOR AUTHORIZATIONS TO USE
BED AND BANKS**

§295.114

STATUTORY AUTHORITY

The new 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 new section is also proposed under TWC, §11.042(a-1), which authorizes, with prior authorization from the TCEQ, the use of the bed and banks of a stream in Texas to convey water imported from a source located wholly outside of the state.

The proposed new section implements TWC, §11.042(a-1).

§295.114. Application to Convey Imported Water in Bed and Banks.

(a) The purpose of this section is to provide the application content requirements for a bed and banks authorization under Texas Water Code, §11.042(a-1).

(b) A person wishing to place water imported into the state from a source located wholly outside the state into a stream or watercourse, convey the imported water in the watercourse or stream, and

subsequently divert such water shall file an application with the commission containing the following information:

(1) the name, mailing address, and telephone number of the applicant;

(2) the name of the stream and the locations of the points of discharge and diversion as identified on a United States Geological Survey 7.5 minute topographical map(s);

(3) the source, amount, and rates of discharge and diversion;

(4) a description of the water quality of the water discharged and, if applicable, the permit number and name of any related discharge permit;

(5) a copy of the legal authorization for the imported water from the source state;

(6) the estimated amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses from the point of discharge to the point of diversion;

(7) an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow needs;

(8) an accounting plan demonstrating that no state water will be diverted under this rule;

and

(9) any other information the executive director may need to complete an analysis of the application.

(c) Nothing in this section shall be construed to affect an existing project for which all required water rights and reuse authorizations have been granted by the commission prior to September 1, 1997.

(d) The method and calculation of carriage losses under this section is subject to the review and approval of the executive director.

SUBCHAPTER C: NOTICE REQUIREMENTS FOR WATER RIGHT APPLICATIONS

§295.155, §295.161

STATUTORY AUTHORITY

The amendments 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 amendments are also proposed under TWC, §11.042(a-1), which authorizes, with prior authorization from the TCEQ, the use of the bed and banks of a stream in Texas to convey water imported from a source located wholly outside of the state, and TWC, §11.085(v), which exempts from the interbasin transfer requirements of TWC, §11.085 transfers of water from out of state into this state using the bed and banks of any flowing natural stream located in this state.

The proposed amendments implement TWC, §11.042(a-1) and §11.085(v)(5).

§295.155. Notice for Interbasin Transfers.

(a) The notice requirements of this subchapter for an application for a new or amended water right, as applicable, shall apply to an application for an interbasin transfer except as otherwise provided by this section. In addition, notice shall be given to users of record in the receiving basin who are located below the point of introduction except for interbasin transfers described under subsection (d)(2) - (5) [(d)(2), (3), and (4)] of this section. For purposes of this section, a river basin is defined and designated by the Texas Water Development Board by rule pursuant to Texas Water Code, §16.051. An increase in the

amount of water being transferred to the receiving basin under an existing water right constitutes a new interbasin basin transfer for purposes of this section.

(b) In addition to the notice requirements provided by subsection (a) of this section, notice of an application for an interbasin transfer shall also include the following unless exempted by subsection (d) of this section:

(1) notice of the application shall be mailed to:

(A) all holders of water rights located in whole or in part in the basin of origin if not already provided under subsection (a) of this section;

(B) each county judge of a county located in whole or in part in the basin of origin;

(C) each mayor of a city with a population of 1,000 or more based upon the most recent estimate of the U.S. Census Bureau located in whole or in part in the basin or origin; and

(D) all groundwater conservation districts located in whole or in part in the basin of origin;

(E) each state legislator in both basins; and

(F) the presiding officer of each affected regional water planning group in both basins.

(2) the applicant shall cause notice of the application to be published once a week for two consecutive weeks in one or more newspapers having general circulation in each county located in whole or in part in the basin of origin and the receiving basin. The published notice may not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches. The notice of application and public meetings shall be combined in the mailed and published notices; and

(3) the notice of the application must state how a person may obtain from the applicant, without cost, information relating to the contract price of the water to be transferred; a statement of each general category of proposed use of the water to be transferred, and a detailed description of the proposed uses and users under each category; the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users; and the projected effect on user rates and fees for each class of ratepayers.

(c) The applicant shall pay the cost of notice required to be provided under this section.

(d) Subsection (b) of this section shall not apply to:

(1) a proposed transfer which in combination with any existing transfers totals less than 3,000 acre-feet of water per annum from the same water right;

(2) a request for an emergency transfer of water under §297.17 of this title (relating to Emergency Authorization [Authorizations] (Texas Water Code, §11.139));

(3) a proposed transfer from a basin to its adjoining coastal basin; or

(4) a proposed transfer from a basin of origin to a county or municipality or the municipality's retail service area that is partially within the basin of origin for use in that part of the county or municipality and the municipality's retail service area not within the basin of origin. The further transfer and use of this water outside of such county or municipal retail service area as existing at the time of the transfer or as may exist in the future other than back to the basin of origin shall not be exempt under this paragraph. For purposes of this paragraph, a county, municipality, or municipality's retail service area refers to a geographic area.

(5) a proposed transfer of water that is:

(A) imported from a source located wholly outside the boundaries of this state, except water that is imported from a source located in the United Mexican States;

(B) for use in this state; and

(C) transported by using the bed and banks of any flowing natural stream in this state.

§295.161. Notice of Application to Convey Water in Bed and Banks.

(a) Except for an application to convey imported water, new or future increases of groundwater-based effluent or other groundwater as provided in subsection (b) of this section, notice of an application to convey groundwater-based effluent or other water in the bed and banks of a stream or watercourse pursuant to Texas Water Code, §11.042(b) and (c) shall be provided by first class mail, postage prepaid, by the commission to every water right holder of record downstream of the discharge point at least thirty (30) days prior to commission consideration of the application.

(b) If the commission has received a written statement of a proposed conveyance of imported water pursuant to Texas Water Code, §11.042(a-1), or new or future increases in groundwater-based effluent or other groundwaters in the bed and banks of a stream or watercourse pursuant to Texas Water Code, §11.042(b), it shall send notice to each diverter of record on the watercourse between the proposed point of discharge and the proposed point of diversion. The notice shall set forth the approximate time that deliveries of such water will occur, the legal consequences that could result from the unlawful diversion and taking of such water in transit, and other details the commission considers appropriate.

(c) Notice of an application for a bed and banks permit under this section shall also be provided to the Texas Parks and Wildlife Department and the Public Interest Counsel.

(d) No published notice shall be required for an application under this section.

(e) The applicant shall be responsible for the costs of providing notice under this section. (For

notice requirements relating to the conveyance of stored water under Texas Water Code, §11.042(a), see §295.160 of this title (relating to Notice of Applications to Convey Stored Water.)

(f) Nothing in this section is intended to deny any additional notice to an affected person that may be required under the Texas Administrative Procedure [Procedures] Act.