

SUBCHAPTER A: REQUIREMENTS OF WATER RIGHTS APPLICATIONS
GENERAL PROVISIONS
DIVISION 1: GENERAL REQUIREMENTS
§§295.1 - 295.17
Effective August 28, 2014

§295.1. Use of Forms.

The executive director will furnish without charge forms and instructions for preparing an application. The use of such forms is not mandatory, but the information required by such forms must be provided in any event. Supplements may be attached if there is not sufficient space on the printed form. If supplements are used, the data and information entered thereon shall be separated into paragraphs numbered to correspond with those on the printed form. A supplement explaining the project and planned operation may be attached to an application.

Effective May 28, 1986

§295.2. Preparation of Application.

(a) All applications shall be typewritten or printed legibly in ink. Illegible applications will be returned to the applicant. Applicants will be notified if additional information is needed to process an application, under §281.4 of this title (relating to Applications for Use of State Water). The applicant should confer with the staff of the executive director on any questions concerning preparation of the application, especially if the application is unusual or unique. Upon express written or verbal approval of the applicant or the applicant's agent, any employee of the commission may make nonsubstantive changes in any documents submitted by the applicant. Substantive changes in an application may be made only by the applicant or the applicant's agent who submitted the application and only in the form of a written, notarized amendment to the application signed by the proper person; provided, however, that no substantive changes may be made after an application has been filed with the chief clerk of the commission by the executive director.

(b) All applicants shall submit one original and six copies of the application and supporting materials. In addition to the original notarized application form, if approved by the executive director, an applicant may submit electronic versions of required application documents.

Adopted August 9, 2006

Effective August 31, 2006

§295.3. Name and Address.

For each applicant, the full name, post-office address, telephone number, and social security or federal identification number shall be given. If the applicant is a partnership, it shall be designated by the firm name followed by the words "a partnership." If the applicant is acting as trustee for another, it shall be designated by the trustee's name followed by the word "trustee." If one other than the named applicant executes the application, the name, position, post-office address, and telephone number of the person executing the application shall be given.

Effective May 28, 1986

§295.4. Source of Supply.

The applicant shall clearly state the name of the source from which the diversion or use of water is proposed. "Source" refers not to the origin of the water, but to the stream, spring or body of water from which the proposed diversion will be made. If the source has no name, it may be designated as "an unnamed watercourse" or "an unnamed spring." If the source is a tributary, the next stream into which it flows and the river basin wherein it lies shall be given.

Effective May 28, 1986

§295.5. Amount and Purpose of Diversion and Use.

The total amount of water to be used shall be stated in definite terms, i.e., a definite number of acre-feet annually or, in the case of a seasonal, emergency, or temporary water right application, over the period for which application is made. The purpose or purposes of each use shall be stated in definite terms. If the water is to be used for more than one purpose, the specific amount to be used annually for each purpose shall be clearly set forth. If the application requests authorization to use water for multiple purposes, the application shall expressly state an annual amount of water to be used for the multiple purposes as well as for each purpose of use. If the amount to be consumptively used is less than the amount to be diverted, both the amount to be diverted and the amount to be consumptively used shall be specified.

Adopted January 20, 1999

Effective February 21, 1999

§295.6. Rate and Method of Diversion.

If the applicant proposes to divert from a stream or reservoir, the maximum rate of diversion in gallons per minute or cubic feet per second shall be stated. The method to be used shall be described as portable pump, stationary pump, or gravity flow.

Effective May 28, 1986

§295.7. Location of Diversion Point, Reservoir, and Dam.

The application shall state the location of point(s) of diversion and, if applicable, the location of dam(s) or off-channel storage reservoir(s). These locations shall also be shown on the application maps with reference to a corner of an original land survey and/or other survey point of record, giving both course and distance. The distance and direction from the nearest county seat or town shall also be stated.

Effective May 28, 1986

§295.8. Return and Surplus Water.

The application shall describe the location at which return water or surplus water will be returned to the stream. If practicable, this must also be shown on the application map. In addition, the application shall state with as much accuracy as possible the quantity of return flow expressed in acre-feet per annum.

Effective May 28, 1986

§295.9. Water Conservation and Drought Contingency Plans.

An application relating to the appropriation or use of state water must include water conservation and drought contingency plans meeting applicable requirements contained in this section. An application not accompanied by such plans is not administratively complete and shall not be considered by the commission, unless expressly exempted by this section. The water conservation plan must demonstrate that reasonable diligence will be used to avoid waste and achieve water conservation in order that appropriated waters will be beneficially used for the authorized purposes. Conservation means those practices, techniques, and technologies that will reduce the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water so that a water supply is made available for future or alternative uses for the benefit of the public health, safety and welfare, and of the environment.

(1) Applications to appropriate or to use water for municipal use, industrial or mining use, or agricultural use, including irrigation use. The water conservation and drought contingency plans submitted with an application to appropriate or to use state water for municipal use, industrial or mining use, or agricultural use must be submitted in accordance with the guidelines set forth in

Chapter 288 of this title (relating to Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements).

(2) Applications to appropriate or to use water by wholesale water suppliers. A water conservation plan submitted with an application to appropriate or to use state water by a wholesale water supplier must be submitted in accordance with the guidelines set forth in Chapter 288 of this title.

(3) Applications to appropriate or to use water for any other purpose or use. A water conservation plan submitted with an application to appropriate or to use state water for any other purpose or use shall include a water conservation plan providing information where applicable about those practices, techniques, and technologies that will be used to reduce the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water.

(4) Applications to amend existing water rights. An application to amend an existing water right for any of the following reasons must be accompanied by water conservation and drought contingency plans in accordance with the applicable provisions of this section:

(A) to increase the amount of the appropriation;

(B) to extend the term of the appropriation;

(C) to change the place of use, unless the request is to expand the amount of acreage to be irrigated adjacent to the existing, authorized irrigated tract without an increase in the appropriation; or

(D) to change the purpose or use of the appropriation (a conservation plan to change the purpose or use of an appropriation need only address the proposed change in purpose or use; however, the executive director may require an applicant to submit a water conservation plan which addresses the applicant's entire water uses and/or appropriations).

(5) Exemptions to the requirement to submit water conservation plans. Applications to impound water for in-place use only, for emergency use in accordance with §295.91 of this title (relating to Requirements for Application for Emergency Water Use Permit) and for temporary use of water in accordance with §295.61 of this title (relating to Additional Requirements for Applications for Temporary Permits) are exempt from having to submit a water conservation plan pursuant to this section. However, all water right holders must exercise reasonable diligence to avoid waste and achieve water conservation so that the right to use

state water is limited to the amount which is being or can be beneficially used for the authorized purposes but not to exceed the amount specifically appropriated.

Adopted July 24, 2002

Effective August 15, 2002

§295.10. Proposed Installation or Reservoir.

If the applicant does not have the power of condemnation and proposes to inundate or to place any installation upon the land of another, the name(s) and address(es) of such landowner(s) shall be given. A copy of a duly acknowledged written easement, consent, or license from the landowner(s) or of a written lease or other evidence of agreement between the landowner(s) and the applicant shall be filed with the application.

Effective May 28, 1986

§295.11. Multiple Ownership of Existing Reservoir.

Except as otherwise provided herein, if an existing reservoir inundates land owned by more than one person, an application for a permit to authorize the dam and reservoir and to use state water impounded in the reservoir shall be joined by all of the landowners. A copy of any operating agreement affecting the reservoir or the distribution of water therefrom shall be submitted with the application. If there is incomplete joinder, the applicant shall submit the name and address of any landowner who does not join the application, and shall file a copy of an easement or a consent, license, lease, or other type of agreement from the landowner(s), as provided in §295.10 of this title (relating to Proposed Installation or Reservoir).

Effective May 28, 1986

§295.12. Storage in Another's Reservoir.

In an application for a permit to appropriate state water for storage in another's lawful reservoir and/or to divert and use water therefrom, a copy of a duly acknowledged document evidencing the consent of the reservoir owner shall be submitted. If the reservoir is a project of the Soil Conservation Service, U. S. Department of Agriculture, a copy of a duly acknowledged document evidencing consent from the Soil and Water Conservation District and any others having jurisdiction over the reservoir shall be provided.

Effective May 28, 1986

§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) 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;

(5) 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; and 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;

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

(7) 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

(8) 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 (Texas Water Code, §11.139));

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

(4) a proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by TWC, §13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality or that contiguous part of the retail service area of the utility, not within the basin of origin; 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.

Adopted August 6, 2014

Effective August 28, 2014

§295.14. Signature of Applicant.

The application shall be signed as follows:

(1) If the applicant is an individual, the application shall be signed by the applicant or the applicant's duly appointed agent. An agent shall provide written evidence of his or her authority to represent the applicant. If the applicant is an individual doing business under an assumed name, the applicant shall attach to the application an assumed name certificate from the county clerk of the county in which the principal place of business is located.

(2) A joint application shall be signed by each applicant or each applicant's duly authorized agent, with written evidence of such agency to be submitted with the application. If land is owned by both husband and wife, each shall sign the application. Joint applicants shall select one among them to act for and represent the others in pursuing the application with the commission, with written evidence of such representation to be submitted with the application.

(3) If the application is by a partnership, the application shall be signed by one of the general partners. If the applicant is a partnership doing business under an assumed name, it shall attach to the application an assumed name certificate from the county clerk of the county in which the principal place of business is located.

(4) If the applicant is an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate, and a current copy of the letters issued by the court shall be attached to the application.

(5) If the applicant is a corporation, public district, county, municipality or other corporate entity, the application shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions

which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

(6) If the applicant is acting as trustee for another, the applicant shall sign as trustee, and in the application shall disclose the nature of the trust agreement and give the name and current address of each trust beneficiary.

Effective May 28, 1986

§295.15. Sworn Application Required.

Each applicant shall subscribe and swear to the application before any person entitled to administer oaths, who shall also sign his or her name and affix his or her seal of office to the application.

Effective May 28, 1986

§295.16. Consistency With State And Regional Water Plans.

An application shall contain information describing how it addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement.

Adopted January 20, 1999

Effective February 21, 1999

§295.17. Water-in-Transit in the Rio Grande.

This chapter only applies to applications for water-in-transit in the Rio Grande to the extent that the rules for water-in-transit applications in the Rio Grande in Chapter 303 of this title (relating to Operation of the Rio Grande) do not govern or do not expressly conflict with this chapter. The applicable rules for water-in-transit in the Rio Grande are in Chapter 303 of this title.

Adopted October 4, 2006

Effective October 26, 2006

**DIVISION 2: ADDITIONAL REQUIREMENTS FOR THE STORAGE OF
APPROPRIATED SURFACE WATER IN AQUIFERS**

§295.21

Effective May 19, 2016

§295.21. Aquifer Storage and Retrieval Projects.

(a) A water right holder or a person who has contracted for the use of water under a contract that does not prohibit the use of the water in an aquifer storage and recovery project may undertake an aquifer storage and recovery project without obtaining any additional authorization under Texas Water Code (TWC), Chapter 11, for the project. A person, as described in this section, undertaking an aquifer storage and recovery project must:

(1) obtain any required authorizations under TWC, Chapter 27, Subchapter G, and TWC, Chapter 36, Subchapter N; and

(2) comply with the terms of the applicable water right.

(b) This section does not preclude the commission from considering an aquifer storage and recovery project, as defined in §297.1 of this title (relating to Definitions), to be a component of a project permitted under TWC, Chapter 11, that is not required to be based on the continuous availability of historic, normal stream flow.

Adopted April 27, 2016

Effective May 19, 2016

DIVISION 3: ADDITIONAL REQUIREMENTS FOR AGRICULTURE
§295.31, §295.32
Effective August 15, 2002

§295.31. Ownership Information Required; Exceptions.

An applicant, seeking the use of state water for agricultural use on particular tracts of land, shall be required to offer proof to substantiate his or her ownership of the land, except as otherwise provided herein. This section does not apply to an applicant which is a water corporation, water district, river authority, or governmental entity authorized to supply water to others.

Adopted July 24, 2002

Effective August 15, 2002

§295.32. Documents and Information To Be Submitted.

(a) An application to irrigate particular tracts of land shall contain the following information concerning the lands proposed to be irrigated:

(1) the original land survey or grant, the abstract number, and the name of the county in which the land is located;

(2) an aerial photograph, plat, or map submitted in accordance with §295.123 of this title (relating to Content Requirements of Maps) showing the tract of land within which a specified number of acres will be irrigated;

(3) a copy of the deed describing the applicant's land, showing recording information from the county deed records;

(4) a legal description of any lands involved in the application;

(5) if the application includes agricultural use of any land not owned by applicant, a consent agreement from the landowner, stating that the landowner recognizes that the permit will be owned by applicant and will not become appurtenant to the land. Renewal of a term permit issued under this chapter will require current documentation of consent agreements. This paragraph does not apply to an applicant who is a water corporation, water district, river authority, or governmental entity authorized to supply water to others or applicants diverting state water from the Rio Grande downstream of Amistad Reservoir.

(b) Applications requesting diversions of state water from the Rio Grande below Amistad Reservoir to irrigate land not owned by the applicant must demonstrate that the tract requested can be serviced from the authorized diversion points and with applicant's irrigation facilities.

(c) Applications requesting water diverted from the Rio Grande below Amistad Reservoir to irrigate land not owned by the applicant must provide the names and addresses of all owners of land to be included in the application. Notice of the request will be mailed by certified mail, at applicant's expense, to all affected landowners. Such landowners will be given two weeks within which to protest. If no protest is received, further notice will not be required.

Adopted July 24, 2002

Effective August 15, 2002

DIVISION 4: ADDITIONAL REQUIREMENTS FOR DAMS AND RESERVOIRS
§295.41, §295.42
Effective August 31, 2006

§295.41. Plans To Be Prepared by Registered Engineer.

Except where written approval of the executive director has been obtained, application plans for dam and reservoir projects, and plats and reports submitted in connection therewith, shall be prepared by a registered professional engineer as defined in the Texas Engineering Practice Act (Texas Civil Statutes Article 3271a). Such plans, plats, and reports shall bear a certificate, signed by the engineer and to which the engineer's seal shall be affixed, stating that the application plans, plats, and/or reports were prepared by the engineer or under the engineer's direct supervision. The certificate and seal shall be affixed to each sheet of plans and plats, or the first sheet shall contain certification that a specified number of sheets following were prepared by the engineer or under the engineer's direct supervision. Affixing the certificate and seal once within a report shall be sufficient. The following certificate form should be used.

Figure: 30 TAC §295.41

I certify that the _____ (described) _____ were prepared by me or under my direct supervision on _____, 19____.

(signature)
Registered Professional Engineer

(Seal) _____ (mailing address) _____

Effective May 28, 1986

§295.42. Additional Notice Requirement.

(a) The applicant for a permit to construct a storage reservoir shall give notice by certified mail of the application to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located.

(b) For purposes of this section, a reservoir is located within a municipality when any part of the reservoir, when full, will be within the city limits of the municipality.

(c) An application for a permit to construct a storage reservoir must contain a copy of the notice that was mailed to each member of the governing bodies, as well as copies of the certified mailing cards.

Adopted August 9, 2006

Effective August 31, 2006

**DIVISION 5: REQUIREMENTS FOR APPLICATIONS FOR PERMITS
UNDER TEXAS WATER CODE, §11.143
§295.51
Effective August 15, 2002**

§295.51. Application for Texas Water Code, §11.143, Permit.

(a) An applicant for a permit under Texas Water Code, §11.143, shall submit to the executive director a sworn application on a form furnished by or acceptable to the executive director and containing the following information:

- (1) the name, post office address, telephone number, and social security or federal identification number of the applicant;
- (2) the nature and purpose of the proposed use, and the amount of water to be used annually for each purpose;
- (3) the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;
- (4) the county in which the dam or reservoir is located;
- (5) the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;
- (6) the survey or the portion of the survey in which the dam or reservoir is located, and, to the best of applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey and/or other survey point of record;
- (7) the approximate surface area, to the nearest acre, of the reservoir when it is full, and the average depth in feet when it is full;
- (8) the approximate size in acres or square miles of the drainage area above the dam or reservoir; and
- (9) if the permit is sought for irrigation under an agricultural use:
 - (A) the total number of irrigable acres in the area;
 - (B) the number of acres to be irrigated within the area in any one year;

(C) the distance and direction of the land to be irrigated from the midpoint of the dam or reservoir; and

(D) a copy of the deed describing the applicant's tract, with the recording information from the county deed records.

(b) An applicant for a Texas Water Code, §11.143, permit shall furnish an aerial photograph of the site. If no aerial photograph is available, the applicant shall submit a map upon which are outlined any areas to be irrigated and upon which the dam and reservoir are located by distance and direction from a corner of an original survey and/or other survey point of record.

Adopted July 24, 2002

Effective August 15, 2002

**DIVISION 6: ADDITIONAL REQUIREMENTS FOR APPLICATIONS FOR
TEMPORARY PERMITS
§295.61, §295.62
Effective May 28, 1986**

§295.61. Applications.

In addition to the general requirements for permit applications, an applicant for a temporary permit shall specify the period of time that water is proposed to be diverted. The application shall be accompanied by a vicinity map at least 82 by 11 inches with sufficient information to enable the executive director to locate on the ground the diversion site and return water discharge points.

Effective May 28, 1986

§295.62. Extension of Time for Temporary Permits.

A holder of a temporary permit who is seeking an extension of time thereof shall submit a letter to the executive director requesting an extension for a specified period of time. The letter shall set forth reasons why the water was not diverted and used within the time allowed. The applicant shall also submit water use report(s) showing the amount of water used under the terms of the permit.

Effective May 28, 1986

**DIVISION 7: REQUIREMENTS FOR APPLICATIONS FOR AMENDMENTS TO
WATER USE PERMITS AND EXTENSIONS OF TIME**

§295.71, §295.72

Effective August 15, 2002

§295.71. Applications To Amend a Permit.

An applicant for an amendment to a water use permit or certificate of adjudication shall file an application prepared in the manner of an original application for a permit. However, the title of the application should be altered to reflect the fact that it is a request for an amendment. A proposed amendment, including an amendment on the motion of the executive director, shall be recorded in the same manner as a permit application. The holder of a permit, certified filing, or certificate of adjudication issued before September 1, 2001, for industrial use or irrigation use where the actual use of the water is now classified as agricultural use may continue to use or supply water in accordance with the previously issued permit, certified filing, or certificate of adjudication without obtaining an amendment.

Adopted July 24, 2002

Effective August 15, 2002

§295.72. Applications for Extensions of Time.

(a) If construction work cannot be commenced or completed within the time periods established by a permit, the permittee may, before the expiration of the time period to commence or complete construction, apply for an extension of time in order to preserve the permit. Applications shall be in writing, shall be received by the executive director before the expiration date, and shall set forth the reasons why construction work could not be commenced or completed within the time required. Estimated time of commencement or completion also shall be set out. The application must also contain reasons why the permit should not be forfeited if the commission finds that reasonable diligence has not been demonstrated.

(b) The commission may grant an extension of the time to commence or complete construction for a reasonable and necessary period if the appropriator demonstrates reasonable diligence towards such commencement or completion and reasonable cause exists for failure to meet the authorized time limitations. The determination of whether an extension should be granted or the right is forfeited is a question of fact to be determined on a case-by-case basis. Reasonable diligence does not require unusual or extraordinary effort, but it does require a steady application of effort that is usual, ordinary, and reasonable under the circumstances and evidences prosecution of such efforts in good faith. Reasonable causes for delay include, but are not limited to, the operation of legal proceedings or other causes which were not within the reasonable control of the permittee and which

were reasonably unforeseeable at the time the appropriation or the last extension, whichever is applicable, was granted by the commission. Delay in commencement or completion of construction because of financial hardship shall not, by itself, constitute sufficient cause for the granting of an extension.

(c) Consideration by the commission of an application to extend the time for commencement or completion of construction shall include whether the appropriation shall be forfeited as provided in §297.74 of this title (relating to Forfeiture and Revocation of Water Right) for failure by the applicant to demonstrate reasonable diligence and justification for delay. If the application for extensions is denied, the appropriation may also be forfeited as ordered by the commission.

Adopted July 24, 2002

Effective August 15, 2002

**DIVISION 8: REQUIREMENTS FOR APPLICATION FOR DIVERSION FOR
DOMESTIC OR LIVESTOCK USE FROM UNSPONSORED AND STORAGE
LIMITED PROJECTS
§295.81, §295.85
Effective December 16, 1987**

§295.81. Application.

A person seeking authorization to use state water for domestic or livestock use from a reservoir constructed by the federal government for which no local sponsor has been designated nor permit issued or a reservoir permitted for storage solely for the purpose of optimum development of the project shall submit a letter setting forth the location of the diversion point, the diversion rate, the amount of water to be diverted, and a statement that the water will be used for domestic and livestock use. The executive director may require the filing of additional information.

Effective May 28, 1986

§295.85. Application.

Any political subdivision may apply to the commission for designation as a cooperating local sponsor of a proposed Texas Water Development Board, United States Army Corps of Engineers, or Bureau of Reclamation of the United States Department of the Interior water development project. More than one cooperating local sponsor may be designated by the commission for each project, but no application shall apply to more than one project. The commission may postpone consideration of the application until after the Texas Water Development Board determines whether the project is feasible, as required by the Texas Water Code, §12.051.

Effective December 16, 1987

**DIVISION 9: REQUIREMENTS FOR APPLICATION FOR EMERGENCY WATER
USE PERMIT**

§295.91

Effective February 21, 1999

§295.91. Application.

A person requesting an emergency authorization under Texas Water Code, §11.139 and commission rules contained in §297.17 of this title (relating to Emergency Authorization (Texas Water Code, §11.139)) shall submit to the commission a sworn application containing the following information:

(1) a description of the condition of emergency justifying the granting of an emergency authorization, including a statement of the facts which support the finding that such conditions present an imminent threat to the public health and safety which override the necessity to comply with established statutory procedures and there are no feasible practicable alternatives to the emergency authorization;

(2) the proposed location of the diversion point, diversion rate, the amount of water to be diverted, the purpose or purposes of use, and an estimate of the dates on which the proposed authorization should begin and end;

(3) steps made by the applicant to develop and implement water conservation and drought contingency plans, to purchase the needed water including whether the water is available to the applicant to meet the emergency need at a price affordable to the applicant, or to otherwise acquire the needed water other than through an emergency authorization;

(4) for a proposed transfer, a statement of consistency with the applicable approved regional water plan, if available; and

(5) any other statements or information required by the commission or executive director necessary to review and take action on the application.

Adopted January 20, 1999

Effective February 21, 1999

**DIVISION 10: FILING REQUIREMENTS FOR WATER SUPPLY CONTRACTS
AND AMENDMENTS**

§295.101

Effective May 28, 1986

§295.101. Documents To Be Filed.

(a) Application forms are available upon request from the executive director, but use of the forms is not required if the necessary information is supplied.

(b) A water supply contract to be submitted to the executive director in accordance with §297.101 of this title (relating to General; Exceptions) shall be accompanied by a vicinity maps showing the diversion point and place of use, and the contractual terms shall include the following:

(1) The cost of water to the purchaser, expressed as a cost per unit of measure;

(2) The effective date and termination date of the contract;

(3) The average quantity of water being furnished on an annual basis or, if the contract is for less than one year, the total quantity being furnished;

(4) The location of the purchaser's diversion point with reference to a corner of an original land survey and/or other survey point, giving both course and distance; and

(5) A statement that the contract's effectiveness is dependent upon the supplier's and/or the purchaser's compliance with this section and Chapter 297 Subchapter J of this title (relating to Water Supply Contracts and Amendments).

(c) If required to file an application for a contractual amendment in accordance with §297.102 of this title (relating to When Application Required), the supplier shall also submit a vicinity map and a copy of the related contract which conform to the requirements of subsection (b) of this section.

(d) If the holder of a contractual permit or amendment wishes to relinquish the contractual permit or amendment and file the contract under these sections, the holder may do so by:

(1) submission of a sworn statement to the executive director which states the contractual permit holder's intent to relinquish the contractual permit and to thereafter file the contract in accordance with these sections, and

(2) submission of a water supply contract which is in compliance with subsection (b) of this section, and §297.103 of this title (relating to Special Requirements for Downstream Sales of Water from a Storage Reservoir). Relinquishment of a contractual permit or amendment is effective upon receipt of a properly executed statement by the contractual permit holder and the filing by the executive director of the substituted water supply contract.

Effective May 28, 1986

**DIVISION 11: REQUIREMENTS FOR APPLICATIONS FOR AUTHORIZATIONS
TO USE BED AND BANKS
§§295.111 - 295.114
Effective May 6, 2010**

§295.111. Authorization to Convey Stored Water In Bed and Banks.

(a) Any seller or purchaser of conserved water or water stored in a reservoir desiring to use the bed and banks of any natural watercourse to release the water from storage and convey it downstream for subsequent use under a water supply contract pursuant to Texas Water Code, §11.042(a) shall file a copy of the purchase contract with the executive director and a written statement of the intended transit of the water setting forth the following:

- (1) The name of the applicant and the place and purpose of use;
- (2) The name of the watercourse, the bed and banks of which are to be used for the transportation of the water;
- (3) The name of the owner of any reservoir located on the watercourse by which the waters are to be conveyed;
- (4) The origin and the terminus of the proposed transported water;
- (5) The time of commencement and termination of the transit;
- (6) The number of acre-feet of water to be transported;
- (7) The approximate flow at the point of origin in cubic feet per second of time;
- (8) The number of the permit, certified filing, or certificate of adjudication which authorizes the storage and the use of water proposed to be transported; and
- (9) The manner in which the water being conveyed will be measured to ensure that only the water being released is being diverted at the point of delivery, less the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses from the point of release to the point of delivery. The method and calculation of carriage losses shall be subject to the review and approval of the executive director.

(b) An exception to the requirements of subsection (a) of this section may be granted by the commission if an emergency exists and time does not permit

following the procedures herein outlined. Further, the requirements of this subsection are not applicable if water is being released from upstream storage under the order of the commission.

(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.

Adopted January 20, 1999

Effective February 21, 1999

§295.112. Application to Convey Groundwater-Based Effluent 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(b).

(b) A person who has discharged or intends to discharge groundwater-based effluent into a stream or watercourse and wishes to divert and use the discharged water shall submit 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 point of the existing or proposed discharge and diversion as identified on a USGS 7.5 minute topographical map(s);

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

(4) a description of the water quality of the water discharged or proposed to be discharged and the permit number and name of any related discharge permit;

(5) the date of initial discharge of the groundwater into the watercourse or stream, if applicable, and any related records of discharge periods, points, amounts and rates;

(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; and

(8) 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 shall be subject to the review and approval of the executive director.

Adopted January 20, 1999

Effective February 21, 1999

§295.113. Application to Convey 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(c).

(b) A person wishing to place water into a stream or watercourse, convey the 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 point of discharge and diversion as identified on a USGS 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) if the water to be placed into the stream is from an existing, authorized interwatershed or interbasin transfer, a certified copy of the related water right;

(6) if the water placed into the stream is from a proposed interwatershed or interbasin transfer, the information required by this subsection shall be provided in the application for the interwatershed or interbasin transfer and

the bed and banks authorization shall be combined with the authorization for the interbasin transfer;

(7) 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;

(8) 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; and

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

(c) An application under this section may be combined with an application for a wastewater discharge for purposes of a consolidated permit proceeding.

(d) 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.

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

Adopted January 20, 1999

Effective February 21, 1999

§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; and

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

(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.

Adopted April 14, 2010

Effective May 6, 2010

**DIVISION 12: MAPS, PLATS, AND DRAWINGS ACCOMPANYING
APPLICATION FOR WATER USE PERMIT
§§295.121 - 295.126
Effective May 28, 1986**

§295.121. Requirements.

Except where written approval of the executive director has been obtained, an application for a water use permit must be accompanied by application plans conforming to the following minimum requirements:

(1) The plans shall be prepared by, or under the direction and supervision of, a registered professional engineer. If irrigation is proposed, the portion of the plans pertaining to irrigation may be prepared by, or under the direction and supervision of, a registered public surveyor.

(2) The plans shall be on tracing linen with waterproof ink. However, photographic reproductions are acceptable if on a stable mat film such as "Chronar," "Estar," "Herculene," or approved equivalent. Aerial photographs or other forms of maps or plats may be considered acceptable for small projects, if appropriate.

(3) The scale shall be not less than 1 inch equals 2,000 feet.

(4) The dimensions of each sheet of plans on tracing linen or approved equivalent shall be 22-24 inches by 36 inches. There shall be a 2-inch binding margin at the left-hand edge, and the other 3 edges shall have margins of not less than one-half inch.

(5) There shall be a title block on the lower right-hand corner of all sheets of tracing linen or approved equivalent. A title block shall be on the reverse side of all aerial photographs or acceptable alternative plats or maps. The title block shall include the following information:

(A) name of project;

(B) name and address of the owner;

(C) the county in which the project is to be located; and

(D) the sheet or photograph number and the total number of sheets; for example: "Sheet 1 of 1," "Sheet 4 of 6."

(6) If applicable, match lines must be shown on appropriate sheets of plans.

Effective May 28, 1986

§295.122. Drawings Not To Be Folded.

Drawings, maps and aerial photographs shall not be folded. If mailed, they must be protected by a tube or heavy envelope.

Effective May 28, 1986

§295.123. Content Requirements of Maps.

Maps or plats shall be drawn to a scale not less than one inch equals 2,000 feet, and shall show the following:

(1) The location and extent of the proposed works, accompanied by a vicinity map;

(2) The location of each point of diversion, by course and distance from a corner of an original land survey and/or other survey point of record;

(3) The location at which return water or surplus water will be discharged into a stream, by course and distance from a corner of an original land survey and/or other survey point of record;

(4) The name of the river, stream or other source of supply, with the direction of flow indicated;

(5) The position and area of all lakes, reservoirs, or basins intended to be used, and the water line thereof; and

(6) The location and ownership of all existing canals, laterals, ditches, conduits, reservoirs, or other works of like character, indicated by appropriate symbols to differentiate these works from the proposed works.

Effective May 28, 1986

§295.124. Additional Requirements for Dams and Reservoirs.

(a) In addition to the preceding requirements, maps or plats submitted with application plans for dam and reservoir projects shall include the following, if applicable:

(1) A plan of the dam showing location of all pertinent features, including structures, spillway discharge channels, roads and property lines.

(2) A topographic map covering damsite, reservoir area, spillways, streambed downstream from the dam, spillway and outlet works, discharge channels for maximum high-water level and normal maximum high-water level with waterline contours shown in heavy lines on reservoir area, and the source of the topographic and supplementary information for determination of contours.

(3) A survey tie of a station on the centerline of the dam to a corner of an original land survey and/or other survey point of record.

(4) A longitudinal profile along the axis of the dam and abutments showing elevations of the original groundline and locations of: bottom of core trench or other cutoff facilities; the top of the impervious stratum, if any; soil boring logs; all outlet works, with inlet and outlet invert elevations; and top of dam.

(5) Plans, profiles, and cross sections of spillways and discharge channels, in appropriate dimensions.

(6) A cross section of the dam at its maximum height, showing all pertinent dimensions and details.

(7) The drainage area, in square miles.

(8) Preliminary plans of service and emergency spillways, showing adequacy of these spillways to pass anticipated floods. The following information shall be provided: elevation-area-capacity curves and tables for the proposed reservoir to maximum high-water elevation; spillway discharge-rating curves and water surface profiles for spillway discharge channels, including tailwater elevation; and survey of receiving channel for determination of downstream discharge conveyance capacity. Derivation of the spillway design storm, flood routing through reservoir, and calculated surcharge and freeboard shall be shown in report form. Spillway adequacy of proposed and existing dams will be evaluated utilizing standard engineering procedures and techniques including, but not limited to, those employed and recommended by the U.S. Army Corps of Engineers, U.S. Soil Conservation Service, U.S. Bureau of Reclamation, and the American Society of Civil Engineers.

(b) All elevations shall be referred to mean sea level datum.

(c) Plans of a proposed enlargement of a dam shall be drawn to clearly distinguish between the limits of the new and old work.

(d) The executive director may require the filing of additional information which, in his opinion, may be necessary to determine the feasibility of the project.

Effective May 28, 1986

§295.125. Requirements for Temporary Permits.

An application for a temporary permit shall be accompanied by a vicinity map at least 8-1/2 by 11 inches with sufficient information to enable the executive director to locate on the ground the diversion site and return water discharge points.

Effective May 28, 1986

§295.126. Requirements for Texas Water Code, §11.143, Permits.

An applicant for a Texas Water Code §11.143 permit shall furnish an aerial photograph of the site. If no aerial photograph is available, the applicant shall submit a map upon which are outlined any areas to be irrigated and upon which the dam and reservoir are located by distance and direction from a corner of an original survey and/or other survey point of record.

Effective May 28, 1986