

Draft SB3 Implementation Guidelines

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Background

- In 2007, the 80th Legislature passed Senate Bill 3 relating to the development, management, and preservation of the water resources of the state.
- S.B. 3 changed the process for incorporating environmental protection into water rights permits for new appropriations of water.
- The guidelines are not intended to apply to applications that do not request a new appropriation of water.



TCEQ's Rules

The adopted environmental flow standards can be found in Chapter 298 of TCEQ's rules in Title 30 of the Texas Administrative Code (TAC).

Subchapter	Basin and Bay System
A	General Provisions
B	Trinity and San Jacinto Rivers and Galveston Bay
C	Sabine and Neches Rivers and Sabine Lake Bay
D	Colorado and Lavaca Rivers and Matagorda and Lavaca Bays
E	Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays
F	Nueces River and Corpus Christi and Baffin Bays
G	Brazos River and its associated bay and estuary system
H	Rio Grande, the Rio Grande estuary, and the Lower Laguna Madre



Draft Implementation Guidelines

The draft guidelines describe how staff proposes to formulate recommendations for flow restriction special conditions for permits or amendments that request new appropriations of water and describe the proposed process for voluntary contributions and adjustments of permit conditions.



How will the adopted standards be included in the WAMs?

- TCEQ evaluates applications for new appropriations of water using TCEQ's full authorization water availability model (WAM). The WAMs will include all of the adopted instream standards for all of the measurement points in the rules at the priority date in the rules.
- The adopted rules state that the standards will be included in the WAMs with a "priority date" as identified in the adopted rules.
- An application for a new appropriation will be assigned a modeled priority date junior to the adopted standards. If an application has a priority date senior to the "priority date" of the standards, the modeled priority date does not change the actual priority date of the application.

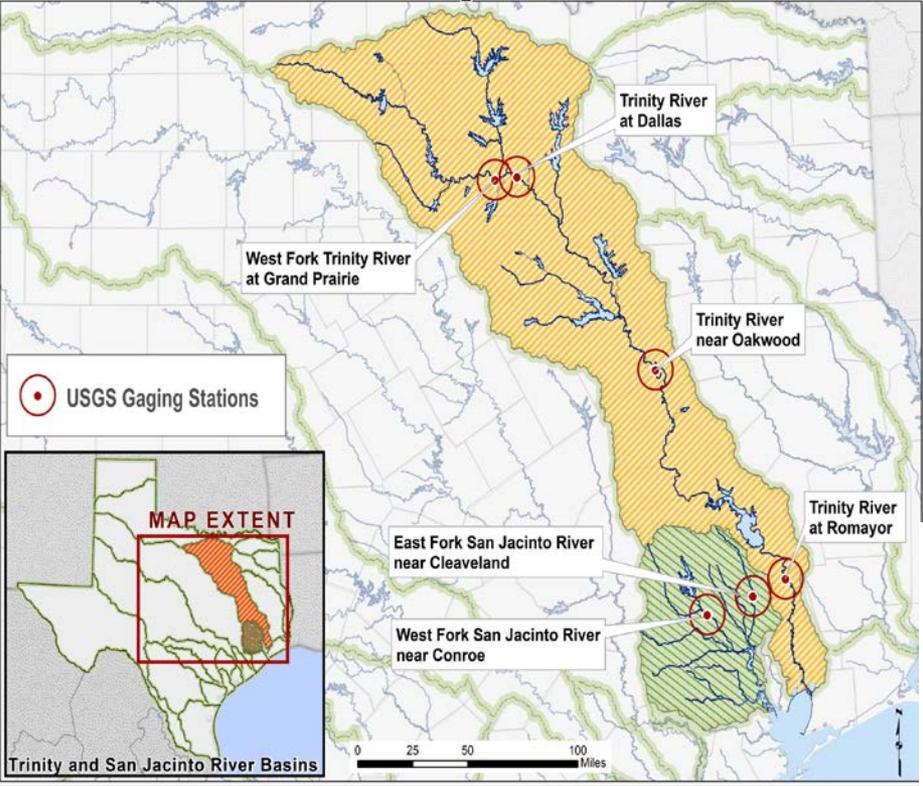


WRAP Users Group

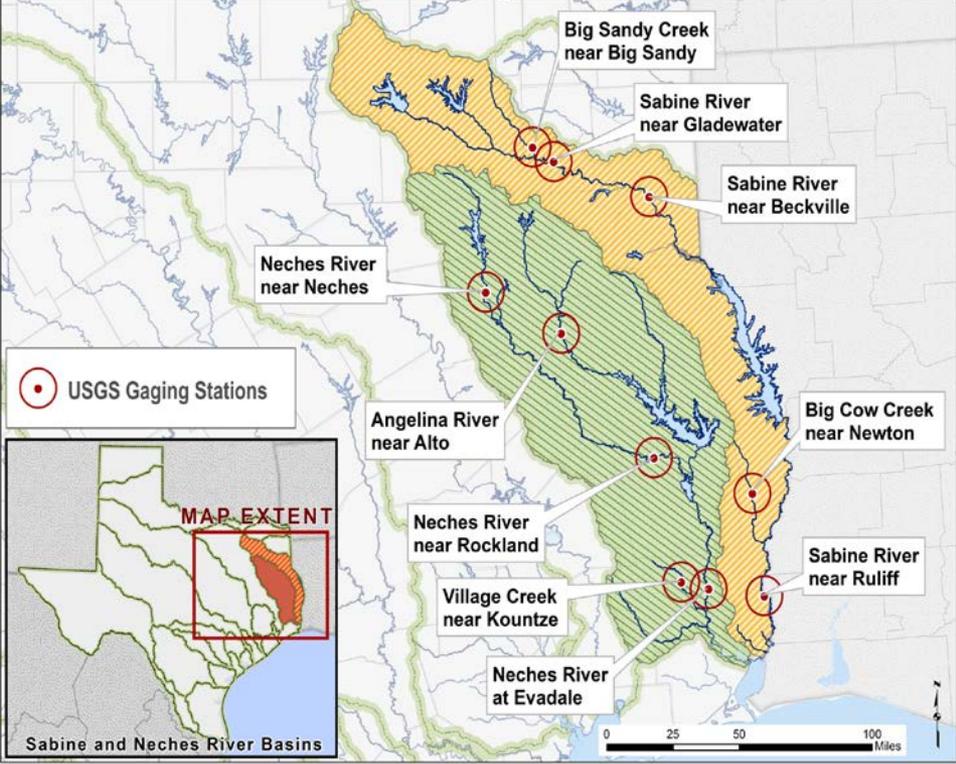
- **TCEQ will be hosting a WRAP Users Group Meeting on Friday July 24th, 2015.**
- **This meeting will include discussion of technical issues related to TCEQ's WAMs.**
- **We will also be taking written comments after the WRAP Users Group Meeting on WAM-related issues.**



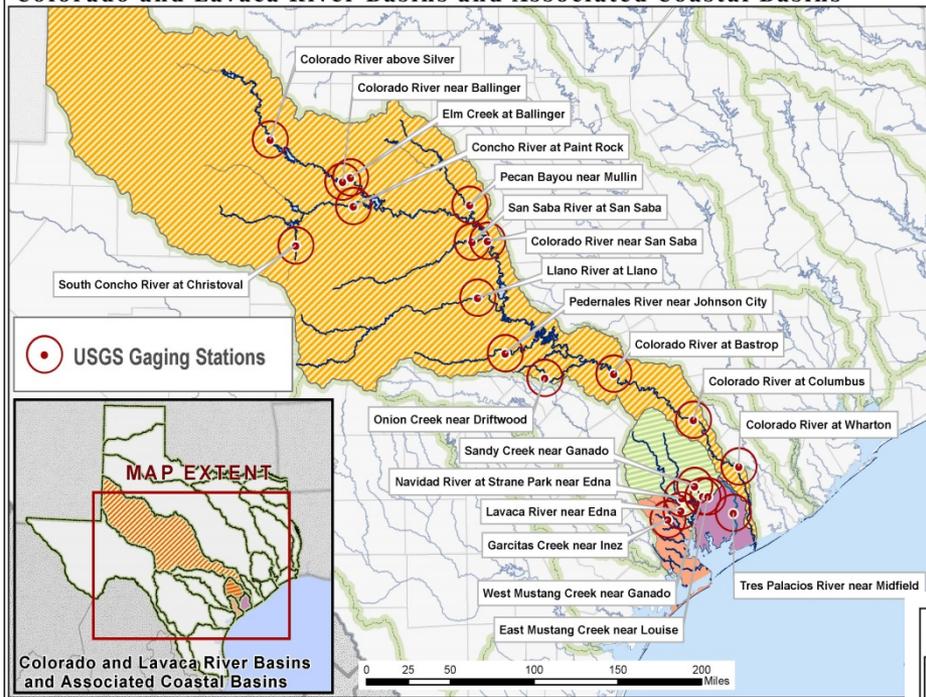
Measurement Points for Subchapter B- Trinity & San Jacinto River Basins



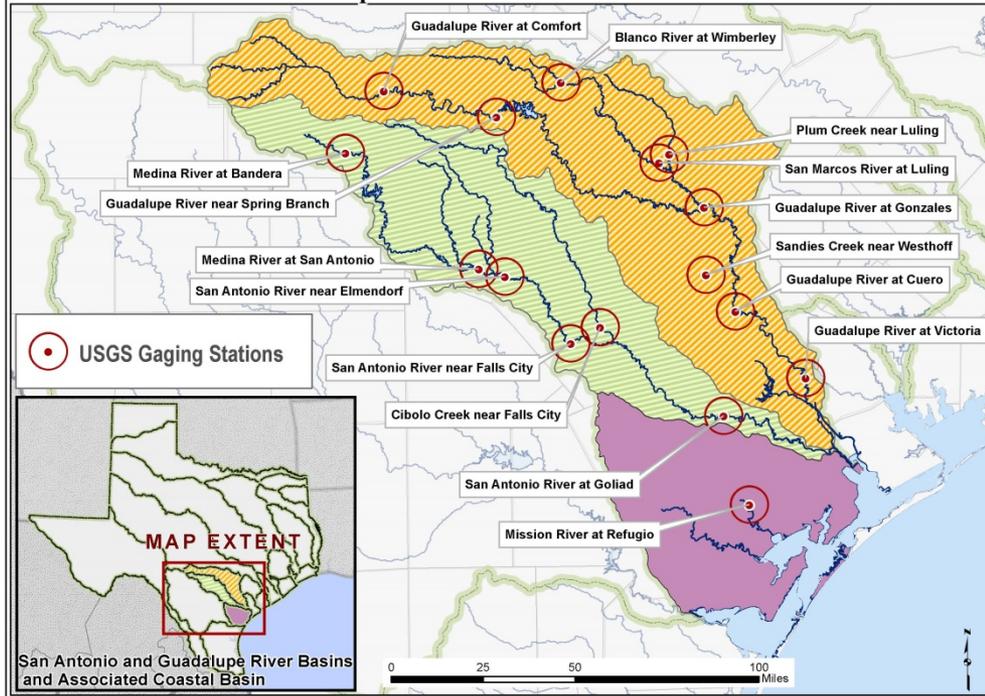
Measurement Points for Subchapter C - Sabine & Neches River Basins



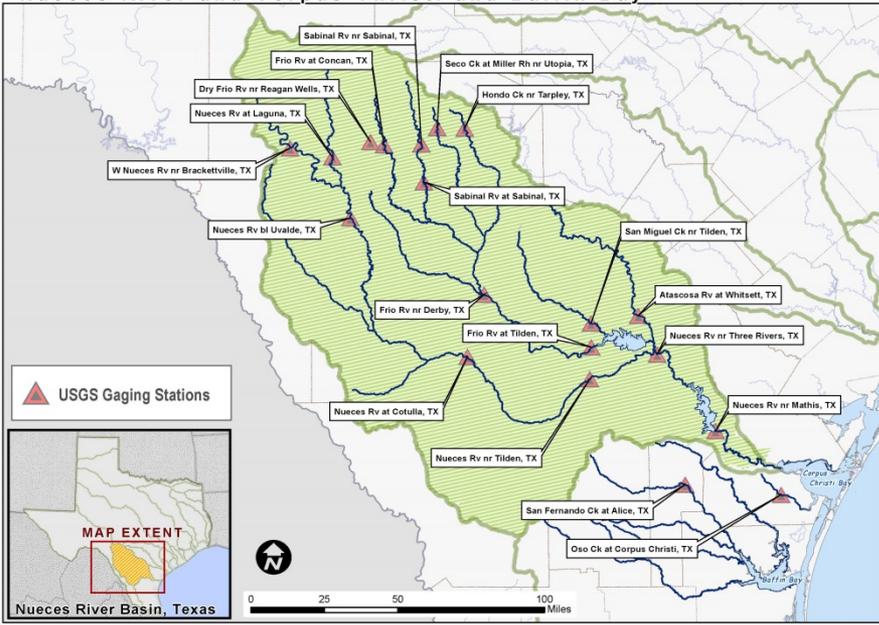
Measurement Points for Subchapter D - Colorado and Lavaca River Basins and Associated Coastal Basins



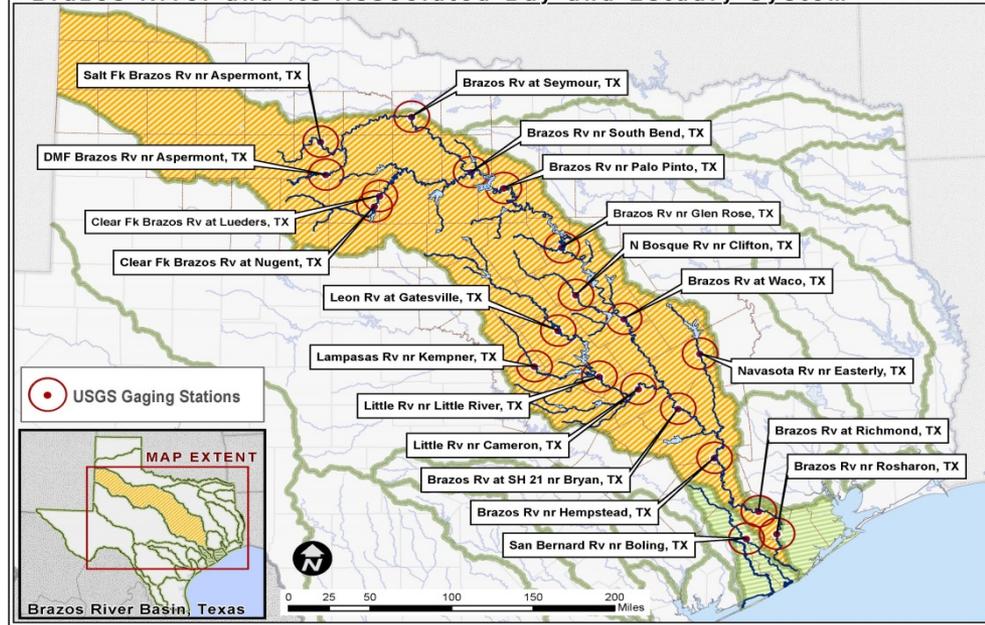
Measurement Points for Subchapter E - San Antonio and Guadalupe River Basins and Associated Coastal Basin



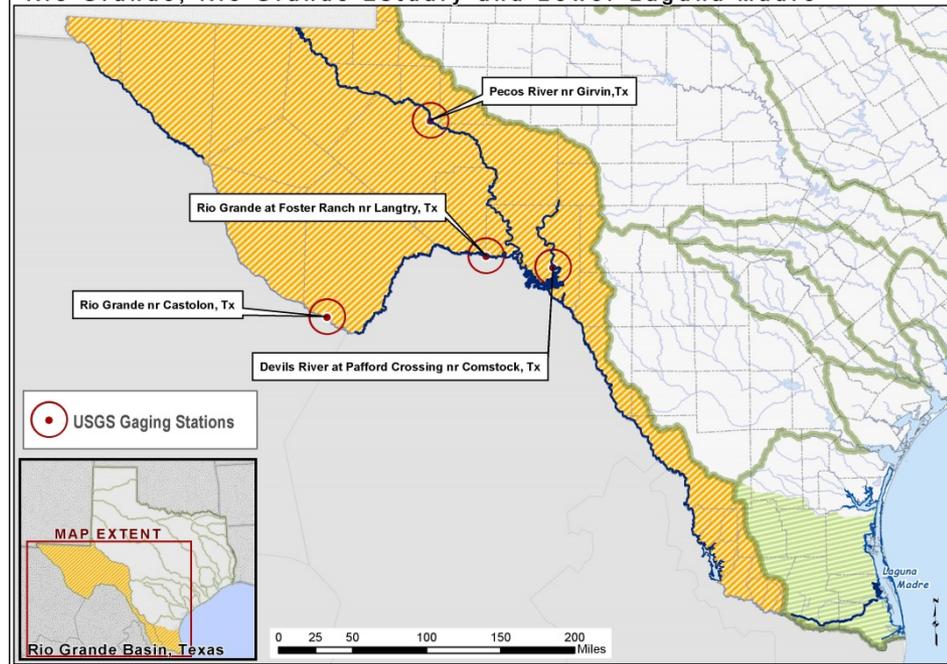
Measurement Points for Subchapter F - Nueces River and Corpus Christi and Baffin Bay



Measurement Points for Subchapter G - Brazos River and its Associated Bay and Estuary System



Measurement Points for Subchapter H - Rio Grande, Rio Grande Estuary and Lower Laguna Madre



Which measurement points should be in a permit?

- To the maximum extent possible, permit special conditions will be based on adopted standards at adopted measurement points.
- The measurement points adopted in the rules are the only measurement points an applicant is required to include in an application.
- Permit special conditions would not require compliance with the standards at all downstream measurement points.
 - If the measurement point is downstream of the diversion location, the permit special condition would require that flows at the gage be maintained at or above the applicable standard.
 - If the measurement point is upstream of the diversion location, the permit special condition would add the diversion rate to the values in the adopted standards for the measurement point.



How can the adopted standards be translated to a different point?

- In considering whether a new measurement point is necessary for a permit, TCEQ could consider proximity, rainfall patterns, the number of measurement points in a basin, existing senior water rights, and hydrologic factors such as intervening tributary inflows.
- Subsistence and base flows could be translated using a drainage area ratio.
- An alternate method could be based on a flow factor developed from a naturalized flow ratio.



How can the adopted standards be translated to a different point?

- Pulse flow requirements, i.e. *trigger flow, volume, and duration*, could be scaled to generate the values for these parameters at a new point.
- TCEQ worked with the University of Texas to look at how to scale pulse flows.
- We did receive some comments on a draft UT report and these were considered in the final UT report and our proposal.
 - Using a WAM naturalized flow ratio rather than an NHD flow ratio.
 - Comments on the statistical analysis that were addressed by UT.
- Specific technical details regarding the pulse flow translation methodology are available at:
<http://www.crwr.utexas.edu/reports/2013/rpt13-2.shtml>



How will freshwater inflow standards be evaluated for a new permit?

- Under the adopted rules, TCEQ would not implement the freshwater inflow standards as special conditions in new water rights.
- The Process:
 - Look at whether a new application impairs freshwater inflow standards as part of the water availability determination for new appropriations of water.
 - Evaluate whether a new application impairs freshwater inflow standards based on the WAM TCEQ uses for new appropriations, and determine impairment based on the basin and bay specific criteria in the adopted rules.
 - Any new permits that are granted will be included in the TCEQ WAM used to determine water availability for new appropriations and compliance with freshwater inflow standards for all subsequent permit applications.



How will permit conditions be adjusted in the future?

- The administrative process can be found in 30 TAC §298.25 subsections (a) through (g).
- Adjustments would only apply to permits issued after 2007.
- The Process:
 - Consider priority dates and diversion locations of other water rights in the same river basin that are subject to adjustment and whether existing special conditions are consistent with and protective of the adopted standards for that basin.
 - Adjust the permit conditions but not necessarily include the standards in these permits.



What is the technical procedure for adjustments?

- The adjustment may not exceed 12.5% of the annualized total of the existing permit condition.
- The 12.5% calculation for subsistence and base flows will be calculated based on a simple 12.5% increase to the numerical value of the flow condition.
- For high flow pulses, we will consider a 12.5% increase in the total volume of the permit condition annualized by totaling all the required pulses per year.



How are voluntary contributions considered?

- A contribution of reliable water or amendment for instream uses and bay and estuary freshwater inflows is entitled to higher consideration and credit than a similar contribution or amendment of less reliable water.
 - More reliable water (available in at least 75% of the years) is entitled to full credit.
 - Less reliable water (available in less than 75% of the years) is entitled to a 50% credit.
 - Availability will be determined using TCEQ's WAMs.
- The amount of water must be evenly distributed over the full year unless the contribution is for stored water.



Implementation Questions

- How will the adopted standards be included in the WAMs?
- Which measurement points should be in a permit?
- How can the adopted standards be translated to a different point?
- How will freshwater inflow standards be evaluated for a new permit?
- How will permit conditions be adjusted in the future?
- What is the technical procedure for adjustments?
- How are voluntary contributions considered?
- Other Issues?



Written Comments

- You may submit written comments by July 31st, 2015.
- Address mailed comments to:
Dr. Kathy Alexander
TCEQ, P.O. Box 13087, MC 160
Austin, Texas 78711-3087
- Submit comments by e-mail to: wras@tceq.texas.gov.
Please include the text "SB3 Implementation" in the subject line of your e-mail.





Contact Information

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