

## DRAFT 4-27-08

### Summary of Regional and State Water Plan Amendment Processes

There are three ways a regional plan can be revised to accommodate the addition of a water management strategy:

1. Substitution of an alternative water management strategy provided for by 31 TAC Ch. 357.7(a)(7)(H).
2. Minor amendment to a regional water plan for those strategies that meet the designated criteria set forth in 31 TAC Ch. 357.16.
3. Full plan amendment with an associated regional water planning group public hearing as set forth in 31 TAC Ch. 357.11(f).

Rather than amending a plan, there is a provision for an entity to request a consistency waiver to obtain a loan for a project that is not contained in a the regional water or state water plans from the Board through the regional water planning group per 31 TAC Ch. 357.13(c).

#### **1. Substitution of a fully-evaluated alternative strategy:**

A fully-evaluated [per 357.7(a)(5)] water management strategy that was not recommended but was explicitly designated as an alternate strategy for a water user group (WUG) or wholesale water provider, can be substituted for a recommended strategy that is no longer recommended. The substitution may not result in a strategy that is in excess of 125% of the recognized needs for the WUG(s) for which the strategy is recommended unless granted by TWDB's Executive Administrator per 357.7(a)(7)(H). Steps in the process are as follows:

- A. The entity proposing a revision to the regional water plan requests an agenda item on the RWPG's agenda for consideration of the strategy substitution. Such consideration would be a posted agenda item for group action at a regularly-posted public regional water planning group meeting.
- B. If the RWPG supports the substitution, the RWPG will submit the substitution to the TWDB Executive Administrator for approval (required in all cases).
- C. Materials to submit to the Executive Administrator (EA) include:
  - a cover letter stating the need for the substitution;
  - a summary of the RWPG action taken including whether or not the RWPG supports the substitution;
  - evidence that the strategy for substitution has been fully evaluated in accordance with statute, rule, and contractual technical guidelines;
  - indication of whether or not the proposed substitution strategy would exceed 125% of the recognized needs for the WUG(s) and, if requested, provide the basis or justification for such request; and,
  - all relevant data fields for the regional water planning database (DB07) that would require updating in the Source module, WMS module, WUG module, or WWP module, such as population, demands, source availability, water supplies (for a WUG or a WWP) or WMS (for a WUG or a WWP). Data requirements vary on a

case-by-case basis. The project manager shall coordinate with applicant and region to work with the Water Supply and Strategy Analysis Team (WSSA).

- D. TWDB staff performs an internal analysis including but not limited to: a water supply over-allocation analysis; identification of potential inter-regional conflicts; confirmation that no new unmet needs result from the substitution.
- E. TWDB staff prepares an internal memo considering the proposed change to a regional plan in the context of the associated rule requirements; draft memo to Executive Administrator to include recommendation for approval or denial.
- F. If the Executive Administrator approves the substitution, written approval from Executive Administrator will be issued to the RWPG Chair, applicant, and political subdivision. The Board may approve an associated amendment to the state water plan upon the EA's determination (see step 4.)
- G. If substitution is denied by the EA, the RWPG may decide to opt for either a minor amendment process (# 2 below) or a full amendment process (#3 below) as appropriate and necessary. Consideration to approve such an action would also require public notice as an agenda item at a regular RWPG meeting.

## **2. Minor Amendment:**

The process for a minor amendment to a regional water plan is described in 357.16 and has significantly less notice requirements than a full regional plan amendment carried out under 31 TAC Ch. 357.11(f), however, certain criteria of the amendment must be met. These include:

- (1) does not result in overallocation of an existing or planned source of water;
- (2) does not relate to a new reservoir;
- (3) does not have a significant effect on instream flows, environmental flows or freshwater flows to bays and estuaries;
- (4) does not have a significant substantive impact on water planning or previously adopted management strategies; and
- (5) does not delete or change any legal requirements of the plan.

Steps to conduct a minor amendment to the plan are as follows:

- A. The entity proposing a revision to the regional water plan requests an agenda item on the RWPG's agenda for consideration of the minor amendment. Such consideration would be a posted agenda item for group action at a regularly-posted public regional water planning group meeting. If the RWPG supports the minor amendment, the RWPG will submit the minor amendment to the TWDB Executive Administrator for approval (required in all cases).
- B. Materials to submit to the Executive Administrator include:
  - a cover letter stating the need for the amendment;
  - a summary of the RWPG action taken;
  - evidence that the strategy for the minor amendment meets the criteria listed in 31 TAC Ch. 357.16;
  - information to demonstrate that the strategy that has been fully evaluated in accordance with statute, rule, and contractual technical guidelines; and,
  - all relevant data fields in the regional water planning database (DB07) that would require updates in the Source module, WMS module, WUG module, or WWP

module, such as population, demands, source availability, water supplies (for a WUG or a WWP) or WMS (for a WUG or a WWP). Data requirements vary on a case-by-case basis. The project manager shall coordinate with applicant and region to work with the WSSA Team.

- C. TWDB staff performs an internal analysis including but not limited to: a water supply over-allocation analysis; identification of potential inter-regional conflicts; confirmation that no new unmet needs result from the amendment.
- D. TWDB staff prepares an internal memo considering the proposed change to a regional plan in the context of the associated rule requirements; draft memo to Executive Administrator to include recommendation for approval or denial.
- E. If the EA determines that the proposed amendment is indeed minor, written EA approval will be issued to the RWPG Chair, applicant, and political subdivision.
- F. After receipt of the EA's determination that the amendment qualifies as minor, the RWPG shall conduct a public meeting subject to the Open Meetings Act with at least two weeks notice prior to the public meeting. The public shall have an opportunity to comment at the meeting and the RWPG shall revise the proposed minor amendment, if necessary [31 TAC Ch. 357.16(d)].
- G. After adoption of the minor amendment, the regional water planning group shall submit the amendment to the board which shall approve the amendment at its next regularly scheduled meeting per §357.16 (e).
- H. The TWDB will then amend the state water plan as appropriate (see #4 below).
- I. If the minor amendment is denied by the EA, the RWPG may choose to proceed with a full amendment process (#3 below) as appropriate. Consideration to approve such an action would need to be posted as an agenda item at a regular RWPG meeting.

### **3. Amendment with Public Hearing and TWDB Board Approval:**

The process for a full amendment of a regional water plan is discussed in several portions of 31 TAC Ch. 357 as noted below. A full amendment of a regional water plan is to be conducted when alternative strategy substitution (Process 1 above) or a minor amendment (Process 2 above) are not appropriate. A full amendment is also to be conducted if revisions to projections are necessary. The steps to conduct a full amendment are as follows:

- A. The entity requiring a revision to the regional water plan requests an agenda item on the RWPG's agenda for consideration of a full amendment to the plan. Such consideration would be a posted agenda item for group action at a regularly-posted public regional water planning group meeting.
- B. The proposed amendment must be a strategy fully evaluated in accordance with statute, rule, and contractual technical guidelines.
- C. Before requesting revisions to population and/or water demand projections, planning groups must discuss the issue at a public meeting, for which notice has been posted pursuant to the Open Meetings Act, in addition to being published on the internet and mailed at least 14 days before the meeting to every person or entity that has requested notice of regional water planning group activities. The public will be able to submit oral or written comments at the meeting, and written comments for 14 days following the meeting.

After this process, the planning group should draft a letter addressed to the Executive Administrator containing the request and data justifying why the request is warranted, as addressed in the technical guidelines for regional water plan development. In addition, planning groups will summarize in the letter any public comments received in response to its request. They should also send an electronic copy of the letter along with a spreadsheet comparing their requested changes with TWDB Board approved projections to their respective project manager who will then forward the material to the director of the Water Resources Planning Division.

Within 45 days of receipt of a request from a planning group for any revisions, staff will consult with the planning group in question and respond to their request.

The directory: "V:\PlanShare\2007 Population Estimates" contains spreadsheets for each region comparing TWDB interpolated population projections for 2007 with current estimates and projections of the Texas State Data Center, which should serve as the primary data source for requests for population projection revisions.

- D. The RWPG will need to hold a public hearing at a central location in the region to discuss the proposed amendment. This public hearing must have notice with a minimum of 30 days between the mailed and published notice of the hearing and the hearing date [31 TAC Ch. 357.12(a)(4)-(6) and Ch. 357.12(b)].
- E. The RWPG must provide for a 30 days minimum public and agency (including TWDB) comment period following the public hearing and before adoption.
- F. TWDB staff performs an internal analysis including but not limited to: a water supply over-allocation analysis; identification of potential inter-regional conflicts; confirmation that no new unmet needs result from the amendment.
- G. The RWPG must make the proposed amendment and regional water plan available for public inspection at least one month before the public hearing in one of the designated public venues defined in 31 TAC Ch. 357.12(b).
- H. The RWPG must adopt the amendment at a RWPG meeting posted under the Texas Open Meetings Act. Adoption must include response to public comment.
- I. The RWPG will submit the plan amendment to the TWDB for Board approval. Materials to submit to the Executive Administrator include:
  - a cover letter requesting and stating the need for the amendment;
  - summary of the RWPG actions taken;
  - documentation of the notice and public hearing process;
  - evidence that the strategy has been fully evaluated in accordance with statute, rule, and contractual technical guidelines;
  - all relevant data fields in the regional water planning database (DB07) that require updates in the Source module, WMS module, WUG module, or WWP module, such as population, demands, source availability, water supplies (for a WUG or a WWP) or WMS (for a WUG or a WWP). Data requirements vary on a case-by-case basis. The project manager shall coordinate with applicant and region to work with the WSSA Team. The project manager must also work with the team manager or division director to place the item on a TWDB Board agenda and develop the associated Board item (e.g. memo).
- J. Once approved by the TWDB Board, the Executive Administrator will notify the RWPG Chair, applicant, and political subdivision in writing.
- K. The TWDB will then amend the state water plan as appropriate (see #4 below).

#### **4. Amendment of State Water Plan:**

According to 31 TAC Ch. 357.11(g)(3) and 357.16(e) and (f), the Board will determine and direct if amendments to the state water plan are necessary.

- a. **Amending the SWP following substitution of an alternative strategy** – A Board item needs to be prepared following adoption of the substitution by the RWP.
- b. **Amending the SWP following a minor amendment** – A Board item is prepared for the next scheduled Board meeting following the EA determination and after the RWPG adopts its amendment.
- c. **Amending the SWP following an amendment** with public hearing – The project manager will coordinate placing the item for approval on the Board agenda and developing the Board item.

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