Amending an Approved Regional Water Plan

Background

Every five years, the 16 regional water planning groups must develop and adopt regional water plans, which are then submitted to the Texas Water Development Board (TWDB) for approval. The TWDB then compiles the regional water plans into a state water plan. During the five-year span between the regular regional water plan adoptions, the plans may need to be amended to identify long-term water supplies.

How is an amendment to a regional water plan initiated?

A regional water planning group (RWPG) may initiate an amendment on its own or an entity planned for in the regional water planning process may request an amendment. A political subdivision of the state of Texas in the regional water planning area may also request an amendment from the RWPG on the basis of changed conditions or new information.

The following general principles govern the amendment process:

- The RWPG must formally consider an amendment request within 180 days of its submittal.
- The RWPG may, at its discretion, accept or reject the proposed amendment request.
- If a RWPG rejects a political subdivision's request for an amendment, the political subdivision may file a petition to the TWDB's Executive Administrator in accordance with 31 Texas Administrative Code (TAC) § 357.51(a).
- If the RWPG takes action to proceed with an amendment, the RWPG must follow the existing amendment process in 31 TAC § 357.51, in accordance with whether the amendment is a substitution of an alternative strategy, minor amendment, or major amendment.

What are the ways a regional water plan may be modified?

A. Substitutions

Substitutions of water management strategies that have already been fully evaluated and are explicitly identified as “alternative” water management strategies in the adopted regional water plans may be made if:

- the water management strategy originally recommended is no longer recommended, and
- the proposed substitution of the alternative water management strategy is capable of meeting the same water need without over-allocating any source.

The substitution process requires the following steps:

1. An entity requests that the RWPG make a substitution.
2. The RWPG considers the proposed substitution request as an action item on an agenda at one of its regular meetings.
3. Proposed substitution materials are submitted to the TWDB Executive Administrator for

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1 31 TAC §357.51 (a). Any amendment proposed must meet rules and guidelines for development of a regional water plan.
2 31 TAC §357.51 (e).
4. The Executive Administrator provides written approval of the substitution if it is in accordance with 31 TAC § 357.51(e).
5. The RWPG adopts the substitution at a public meeting with an opportunity for public input. This meeting requires at least a 14-day notice. The RWPG considers public comments and may adopt the amendment at the meeting.
6. The RWPG submits evidence of the substitution to the TWDB, including a summary of public comments.
7. The TWDB then amends the state water plan, which requires a public hearing on the proposed state water plan amendment and a 30-day public notice prior to its adoption.

B. Minor amendments

Minor amendments may be made to incorporate changes that do not

- result in over-allocation of an existing or planned source of water,
- relate to a new reservoir,
- increase unmet needs or produce new unmet needs in the adopted regional water plan unless the increase in unmet needs or new unmet needs is the result of removing infeasible water management strategies and/or projects in accordance with 31 TAC § 357.51(g),
- have a significant effect on instream flows, environmental flows, or freshwater flows to bays and estuaries,
- have a significant substantive impact on water planning or previously adopted management strategies, or
- delete or change any legal requirements of a plan.

The minor amendment process requires the following steps:
1. An entity requests the RWPG to amend a regional water plan.
2. The RWPG considers the request and takes action to pursue the amendment at one of its regular public meetings.
3. Amendment materials are prepared in accordance with TWDB rules and guidance, and the RWPG submits a request for a “minor amendment determination” to the TWDB Executive Administrator.
4. The Executive Administrator reviews the request and issues a determination to the planning group.
5. If the Executive Administrator determines that it is a “minor amendment,” the RWPG considers adopting the amendment at a public meeting with an opportunity for public input. This meeting requires at least a 14-day notice, including a 14-day written comment period. The RWPG considers public comments and may adopt the amendment at the meeting.
6. The RWPG submits the adopted minor amendment materials, including a summary of public comments, to the TWDB for approval.
7. The TWDB reviews the adopted minor amendment and, if acceptable, the TWDB Board will

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3 31 TAC §357.51 (e).
4 31 TAC §357.21 (g)(2) and posted under the Texas Open Meetings Act.
5 31 TAC §357.51 (c).
6 31 TAC §357.21 (g)(2) and posted under the Texas Open Meetings Act.
7 Amendment adoption must include response to public comment and must otherwise comply with TWDB technical guidelines and rules.
consider approval of the amendment at a regular Board meeting.

8. The TWDB then amends the state water plan, which requires a public hearing on the proposed state water plan amendment and a 30-day public notice prior to its adoption.

C. Major amendments

Major amendments may be made to incorporate changes that cannot be addressed through a minor amendment. Major amendments may not result in an over-allocation of an existing or planning source of water and must conform with all other rules for regional water plan development\(^8\).

The major amendment process requires the following steps:

1. An entity requests that the RWPG make an amendment.
2. The RWPG considers the request and takes action to pursue the amendment at one of its regular public meetings.
3. Amendment materials are prepared in accordance with TWDB rules and guidance for consideration at a public hearing, and the RWPG submits the draft amendment packet to the TWDB Executive Administrator for review.
4. The RWPG holds a public hearing on the proposed amendment\(^9\). This process requires 30 days between published notice of the hearing and the hearing date. A 30-day written comment period following the hearing is also required.
5. The Executive Administrator reviews the request and issues a response letter to the planning group.
6. The RWPG considers all public comments received and may adopt the regional water plan amendment at a regular planning group meeting\(^10\) after the 30-day comment period\(^11\).
7. The RWPG submits the adopted amendment materials, including a summary of public comments and responses to comments, to the TWDB for approval\(^12\).
8. The TWDB reviews the adopted major amendment and, if acceptable, the TWDB Board will consider approval of the amendment at a regular Board meeting.
9. The TWDB then amends the state water plan, which requires a public hearing on the proposed state water plan amendment and a 30-day public notice prior to its adoption.

Who pays for an amendment?

Typically, the entity requesting the amendment pays for the costs related to developing regional water plan amendment materials. TWDB regional water planning grant funds may not be used to pay for an amendment to a regional water plan with the exception of those amendments required to address the region’s analysis of infeasible water management strategies and/or projects.

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\(^8\) 31 TAC §357.51 (b).
\(^9\) 31 TAC §357.21 (g)(3).
\(^10\) Posted under the Texas Open Meetings Act; see also 31 TAC §357.21 (g)(1).
\(^11\) Amendment adoption must include response to public comment and must otherwise comply with TWDB technical guidelines.
\(^12\) Amendments to an approved regional water plan shall include a technical report and data in accordance with TWDB specifications, executive summary, and summaries of all written and oral comments received with a response. Data must be transferred to the TWDB (31 TAC §357.50(g)).
Why might a regional water plan need to be amended?

If a project sponsor seeks funding from the TWDB for a water supply project or a water rights permit from the Texas Commission on Environmental Quality, the proposed project must be found to be consistent with the approved regional water plan and state water plan. If the proposed project is not already consistent with the approved regional and state water plan and the sponsor cannot wait to incorporate the proposed project into the next adopted regional water plan, the existing regional water plan must be amended, or a waiver of statutory requirements regarding consistency with such plans must be obtained from the TWDB and/or Texas Commission on Environmental Quality\(^\text{13}\).

Additionally, in order for projects to be eligible for funding from the State Water Implementation Fund for Texas, projects must be recommended in the most recent regional and state water plans and have an associated capital cost.

RWPGs must also amend their regional water plan if they have identified any water management strategies and/or projects that are infeasible in accordance with Texas Water Code §16.053(h)(10).

Revisions to TWDB Board-adopted Projections during regional water plan development

Amendments to TWDB Board-adopted projections may be requested whenever current projections are no longer reasonable owing to changed conditions or the availability of new information\(^\text{14}\). These revision requests are typically requested for current plans under development and the resulting revisions are typically incorporated directly into the regional water plan under development prior to plan adoption.

The process requires the following steps:

1. An RWPG must submit a revision request, usually based on a request from a political subdivision, to the TWDB.
2. The regional water planning group must provide at least 14 days notice for a meeting and make the proposed population and/or water demand projection revisions available for public inspection prior to the meeting.
3. The RWPG must accept oral and written public comments at the meeting in which the request is considered and written comments for 14 days prior to the meeting.
4. The RWPG submits the revision request to the TWDB, including a summary of all comments the planning group received at the meeting and during the comment period.
5. The TWDB reviews the request in accordance with contract guidelines and consults with the Texas Department of Agriculture, Texas Commission on Environmental Quality, and Texas Parks and Wildlife Department. Within 45 days of receipt of a revision request from an RWPG, the executive administrator responds to the request.
6. Acceptable revisions will be presented for consideration of approval at an upcoming TWDB Board meeting.

If the RWPG pursues revisions to TWDB Board-adopted population and/or demand projections

\(^{13}\) 31 TAC §357.60 (b)(5).

\(^{14}\) 31 TAC §357.31.
in a previously adopted plan, the RWPG would need to take steps to pursue a minor or major amendment to the regional water plan after TWDB Board approval of the revision to adopted projections.

It is important to note that TWDB regional water planning grant funds are **prohibited** to be used for amendments related to the revision of TWDB Board-adopted population and demand projections.

**Statute and Rules**
- Texas Water Code, Chapter 16, Subchapter C:  
- 31 TAC Chapter 357:  

For more information on regional water planning and related guidance, please visit the following Web site:  [https://www.twdb.texas.gov/waterplanning/rwp/index.asp](https://www.twdb.texas.gov/waterplanning/rwp/index.asp)

**Note:** This guidance document does not cover all procedural and substantive requirements applicable to water plan amendments. For this reason, this document should not be used as a substitute for the regulations as written. In case of doubt, consult the Texas Water Code, Chapter 16, Subchapter C, and 31 TAC Chapter 357. Regional water planning groups or political subdivisions with legal questions regarding changes to the regional water plans should consult with their own attorneys or the Texas Attorney General’s Office.