

TEXAS REGISTER

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TEXAS DOCUMENTS

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications; codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 16, 22, 25, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

- 1 is the title (agencies grouped together by subject title which are arranged alphabetically)
- TAC is the *Texas Administrative Code*
- §27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 4, Jan. 81

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Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.

TEXAS REGISTER

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*George W. Strake, Jr.
Secretary of State*

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March 9, 1981

White House Conference on Aging

Pursuant to Public Law 95-478, as delegates, for a term through the end of the activities of the conference:

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Austin, Texas 78704

Lester L. Womack
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Bryan, Texas 77801

Tim Cobb
Drawer JJ
George West, Texas 78022

Issued in Austin, Texas, on March 9, 1981.

Doc. No. 811640 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.

March 10, 1981

Texas Board of Mental Health and Mental Retardation

To be a member for a six-year term to expire January 31, 1987:

Sam F. Rhodes
11241 Ferndale
Dallas, Texas 75238

Mr. Rhodes is replacing Dr. Margaret Cigarroa of Laredo, Webb County, whose term expired.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811641 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.

Executive Orders

WPC-20

Establishing the Task Force on Bilingual Education to study and make recommendations of methods to provide quality bilingual education.

WHEREAS, there are students in Texas public schools who speak a language other than English as their primary language.

WHEREAS, there are many problems in providing adequate and effective bilingual education to the students in the public schools of Texas.

WHEREAS, the work of our school system in providing quality bilingual education must be re-evaluated.

WHEREAS, the importance of a strong and smooth transition into the area of primary English language teaching should be re-emphasized.

WHEREAS, a statewide program to address the issues and find solutions to providing quality bilingual education is needed.

NOW, THEREFORE, I, William P. Clements, Jr., Governor of the State of Texas, under the authority vested in me, do hereby create and establish the Task Force on Bilingual Education.

The Task Force on Bilingual Education will consist of 15 members, including the chairman of the Senate Education Committee; the chairman of the House Public Education Committee; Senator Carlos Truan and Representative Matt Garcia, sponsors of bilingual education legislation; the chairman of the Board of Education; a professor at the University of Texas Law School to be designated by the dean of the University of Texas Law School; and nine other members to be named, three each by the governor, lieutenant governor, and speaker of the House of Representatives. The governor shall designate a chairman and a vice chairman from the membership who shall call and preside over the meetings of the Task Force on Bilingual Education.

Service on the Task Force on Bilingual Education by state officials and state employees shall be an additional duty of their office and all members shall serve without compensation or reimbursement of expenses.

The Task Force on Bilingual Education is directed to examine the transition period beyond the present program of bilingual teaching from kindergarten through the third grade with emphasis on the importance of a strong and smooth transition into the area of primary English language teaching. The task force is further directed to develop a program for those students who enter school beyond the third grade, and to

develop a program to make available intensive counseling in English for those students who need extra help from kindergarten through the 12th grade. The task force shall also study the methods to best implement a program of summer school language support classes for grades one through 12.

By this order I am directing all state agencies to cooperate with the Task Force on Bilingual Education and to provide all available information and resources necessary so that the vital work of the task force may proceed with all deliberate speed.

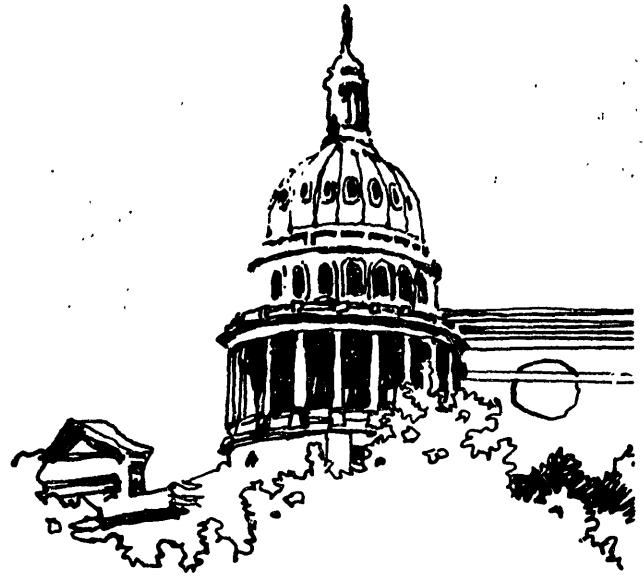
The task force is directed to present its recommendations on providing quality bilingual education to the governor, lieutenant governor, and speaker of the house on or before April 15, 1981.

The executive order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811622 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.



Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

Opinions

Summary of Opinion MW-297 (RQ-414)

Request from H. L. Snow, county auditor, Willacy County, concerning whether the county may pay employees twice monthly.

Summary of Opinion: The commissioners court of a county is authorized to direct the payment of the salaries of county employees on a twice-monthly basis.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811645 Susan L. Garrison, Chairwoman
Opinion Committee
Attorney General's Office

For further information, please call (512) 475-5445.

Summary of Opinion MW-298 (RQ-453)

Request from Patrick J. Ridley, county attorney, Bell County, concerning whether the Family Code, §53.06, requires service of summons on the parents of a married juvenile.

Summary of Opinion: The Family Code, §53.06, requires the judge of a juvenile court to direct issuance of summons on the parents of a juvenile who is married.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811644 Susan L. Garrison, Chairwoman
Opinion Committee
Attorney General's Office

For further information, please call (512) 475-5445.

Summary of Opinion MW-301 (RQ-193)

Request from Richard G. Morales, Sr., county attorney, Webb County, concerning administration of Vernon's Texas Civil Statutes, Article 1066d, relating to tax incremental districts.

Summary of Opinion: In determining the 10% limitation imposed by Vernon's Texas Civil Statutes, Article 1066d, §7(a), the calculation should be based on the actual geographic area used for residential purposes within the proposed tax incremental district. When property is used for both residential and commercial purposes, the percentage of residential property should be determined by the actual area used for residential purposes. There is no inconsistency between §8(a) and §11(c) of the Act. Section 8(a) relates to time limitations for certain deposits into the special fund provided for in §8(b). Section 11(c) relates to time limitations for the maturity of bonds and notes which are to be retired with funds paid out of the special fund provided for in Section 8(b).

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811630 Susan L. Garrison, Chairwoman
Opinion Committee
Attorney General's Office

For further information, please call (512) 475-5445.

Summary of Opinion MW-302 (RQ-429)

Request from Oscar H. Mauzy, chairman, Texas Senate Education Committee, Austin, concerning issue of new tuition revenue bonds under the Education Code, Chapter 55.

Summary of Opinion: Universities authorized to issue tuition revenue bonds under §55.17, §55.171, and §55.172, may not issue additional bonds as outstanding bonds are retired.

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811631 Susan L. Garrison, Chairwoman
Opinion Committee
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 22. EXAMINING BOARDS

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

General Provisions Relating to the Requirement of Licensure

The Texas Real Estate Commission proposes to amend §535.1 (402.03.01.001) in order to clarify licensure requirements. On December 25, 1980, an amendment to this section became effective requiring real estate licensure of managers who direct or supervise licensees performing acts which require licensure privileges. Question thereafter arose about the application of that amendment to administrative personnel. In order to clarify the intent of the amendment, the Texas Real Estate Commission restored the original section by emergency amendment effective February 12, 1981, for 90 days in the February 20, 1981, issue of the *Texas Register* (6 TexReg 691), and by this proposal begins the consideration of a permanent amendment to this section.

The commission staff estimates that this action will have no fiscal implications either for the state or for units of local government.

Written comments are invited and may be submitted to the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711, until April 30, 1981.

These amendments are proposed pursuant to the authority of Texas Civil Statutes, Article 6573a.

§535.1 (402.03.01.001). License Required.

(a)-(f) (No Change.)

(g) Real estate licensure is required [for managers] of a real estate broker's employees, agents, or associates who direct or supervise [persons] other employees, agents, or associates while the other employees, agents, or associates are performing acts for which licensure is required [engaged in activities defined in Section 2 of the Act]. *Provided, however, that licensure is not required for the performance of administrative tasks. "Administrative tasks" include but are not limited to the following:*

(1) *training or motivating personnel;*

(2) *performing duties generally associated with office administration and personnel matters.*

(h) (No change.)

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811623 Andy James
 Administrator
 Texas Real Estate Commission

Proposed Date of Adoption: April 20, 1981

For further information, please call (512) 475-6693.

Suspension and Revocation of Licensure

The Texas Real Estate Commission proposes to amend §535.156 (402.03.15.027). This section was the subject of a proposed amendment which was withdrawn by the commission in the January 23, 1981, issue of the *Texas Register* (6 TexReg 272). The previously proposed amendment made mandatory the obligation of a licensee to convey to his principal all known information affecting the principal's decision on whether or not to accept or reject offers. As now proposed, the amendment additionally provides that the licensee has no duty to submit offers to the principal after the principal has accepted an offer. The proposed amendment is intended to clarify the obligation of a licensee once he or she has negotiated a contract for the sale of a principal's property.

The commission staff estimates that this action will have no fiscal implications either for the state or for units of local government.

Written comments are invited and may be submitted to the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711, until April 30, 1981.

These amendments are proposed pursuant to the authority of Texas Civil Statutes, Article 6573a.

§535.156 (402.03.15.027). Dishonesty; Bad Faith; Untrustworthiness.

(a) A licensee's relationship with his principal is that of a fiduciary. A [The] licensee *shall* [should] convey to his principal all known information which would affect the principal's decision on whether or not to accept or reject offers; *however, the licensee shall have no duty to submit*

offers to the principal after the principal has accepted an offer.

(b) - (d) (No change.)

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811624 Andy James
 Administrator
 Texas Real Estate Commission

Proposed Date of Adoption: April 20, 1981
For further information, please call (512) 475-6693.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 51. Executive

Procedures for the Adoption of Rules

The Parks and Wildlife Commission proposes to amend §51.8 (127.01.01.008) and add §51.9 establishing a procedure for the consideration and disposition of subsequent petitions to adopt rules. The proposals establish a procedure whereby later petitions which are essentially identical to an initial one which was denied would be considered by the commission only if the petitioner submits to the executive director new evidence of a material nature or evidence establishing changed conditions.

These proposals have no fiscal implications for units of state or local government, according to agency personnel.

Public comment is invited and may be submitted by telephoning the office of Boyd Johnson, legal counselor, at (512) 475-4954, or by writing to Boyd Johnson at 4200 Smith School Road, Austin, Texas 78744.

The amendment and new section are proposed under the authority of Vernon's Texas Civil Statutes, Article 6252-13a, the Administrative Procedure and Texas Register Act.

§51.8 (127.01.01.008). *Consideration and Disposition.* The commission will consider requests within 60 days after the submission of a petition *except as provided by §51.9 of this title (relating to Subsequent Petitions) with respect to later and essentially identical petitions* and may either deny the petition or instruct the director to initiate rulemaking proceedings in accordance with Administrative Procedure and Texas Register Act, §5. In the event a petition is denied, the director will advise the interested person in writing of the denial and will state the reasons for the denial by the department.

§51.9. Subsequent Petitions. The commission will consider a later petition having the same substance as the initial petition only if the petitioner submits to the executive director new evidence of a material nature or evidence establishing changed conditions. The executive director is delegated authority to determine whether this requirement has been met. Should the executive director determine that the peti-

tioner has not met this prerequisite, he shall so inform the petitioner in writing.

Issued in Austin, Texas, on March 13, 1981.

Doc. No. 811676 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife Department

Proposed Date of Adoption: April 20, 1981
For further information, please call (512) 475-4954.

Chapter 57. Fisheries

Shell Dredging on the Texas Gulf Coast

The Texas Parks and Wildlife Commission proposes to amend §57.42 (127.30.04.002). The commission proposes to authorize shell dredging in State Tracts 74, 101, 102, and 106 located in San Antonio Bay, subject to the conditions specified in the proposed amendments. Shell dredging is not authorized in these state tracts under the present rules. This action is proposed due to the diminishing quantity of recoverable shell in other portions of San Antonio Bay and due to the potential enhancement of existing oyster resources.

The staff of the Parks and Wildlife Department (Fisheries Division) estimates that the adoption of the proposed amendments will increase revenue to the Game, Fish, and Water Safety Fund (Fund 9) due to the increased availability of shell as follows:

Fiscal Year	State
1981	\$100,000
1982	\$300,000
1983	\$300,000
1984	\$300,000
1985	\$300,000

The proposed amendments have no fiscal implications for units of state or local government, according to agency personnel.

Comments are invited and may be submitted by contacting Leland Roberts, Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

These amendments are proposed under the authority of the Texas Parks and Wildlife Code, Chapter 86.

§57.42 (127.30.04.002). *Contents.* In view of the [foregoing] facts *stated in §57.41 (127.30.04.001) of this title (relating to Finding of Facts)*, the commission now promulgates the following sections for the control, wise use, and taking of shell resources that may yet be available for industry:

(1) The director of the department is expressly authorized to issue shell dredging permits in all the coastal waters of Texas except in those areas described as follows:

(A) (No change.)

(B) In no event will shell dredging operations be conducted in that portion of San Antonio Bay and tributary water bodies north of North Latitude 28° and 22 minutes *except that shell dredging operations may be conducted in State Tracts Numbers 74, 101, 102, and 106, subject to the conditions contained at (i) - (x).*

(i) The director is authorized to designate specific state tracts which are open or closed for dredging except that not more than one state tract will be designated for dredging at any one time. Once dredging is completed within a state tract, no further dredging will be authorized in that one state tract.

(ii) Permittee will map and mark the edges of all exposed reefs within 1,500 feet of the proposed dredge operating site prior to the commencement of any dredging within an authorized tract. All mapping and marking will be verified and approved by the department prior to any dredging.

(iii) Except as provided in clause (iv) of this subparagraph, no dredging will be authorized within 100 feet of an exposed reef.

(iv) No exposed shell reefs 1/2 acre or larger will be dredged. When the exposed reef area is less than 1/2 acre in size, the director or the department agent having responsibility for shell management may give permission in writing to the permittee to dredge the exposed reef provided the permittee agrees in writing to construct an artificial replacement reef at permittee's sole expense at least one acre in area and at least one foot thick at a location designated by the department within the confines of San Antonio Bay. The director will designate the period of time when the shell will be furnished to the department.

(v) Those sections relating to siltation and to minor violations for siltation of exposed reefs are suspended for operations which occur in the state tracts designated in this section when no live oysters are present on an exposed reef at any time during the dredging operation. Permittee will remove all silt from an exposed reef following dredging operations or if removal of silt is determined to be impractical, permittee will resurface the entire area of the exposed reef with clean, coarse shell to the satisfaction of the department. If live oysters are present on any exposed reef and siltation occurs to the reef as a result of the dredging operation or related dredging activities of permittee, those sections relating to siltation and minor violations will remain in full force and effect. For purposes of this clause, live oysters are considered to be present on an exposed reef within a state tract when three, one bushel or more, samples produce an average of one or more market oyster (three inches or larger) per bushel or 10 or more seed oysters (3/4 inch to three inches), and spat (below 3/4 inch) combined per bushel sample. The director will designate the period of time when the shell will be furnished to the department.

(vi) No more than one dredge per permittee will be authorized to operate at any time and not more than one dredge will operate at one time regardless of the number of permittees. The director will determine the periods of operation allotted to each permittee and all periods will be distributed equally as nearly as possible.

(vii) Permittee will be required to use a silt screen around the discharge pipe of the dredge at such times as it is determined by the department agent having responsibility for shell management that this procedure will diminish the silt load in the water column.

(viii) Permittee will provide the department with not less than 3.0% of shell dredged for reef enhancement in designated coastal bays to be delivered and spread at permittee's expense under the supervision of the department. The director will designate the period of time when shell will be furnished by permittee to the department for reef enhancement. The quantity of shell referred to in this clause will be in addition to the quantity specified in clauses (iv) and (v) of this subparagraph.

(ix) Permittee will agree in writing to pay the department for all financial costs incident to the monitoring of shell dredging operations and for monitoring the biological, physical, and chemical parameters deemed essential by the department to maintain water quality and fisheries production in San Antonio Bay prior to any activities authorized by this section. The director is authorized to determine the methods and terms for payment. Monitoring of shell dredging activities and biological, physical, and chemical parameters includes but is not limited to surveying of exposed reefs, placement and checks of siltation baskets to determine sediment transport and deposit, sampling of reef surfaces to determine deposition of dredge-suspended sediments, and such other similar activities deemed appropriate by the director. Factors such as dredge distance from reefs, length of operation, direction and depth, extent of plume, turbidity, type and composition of suspended solids, water depth, tidal current and direction, wind direction and velocity, salinity, and temperatures may be determined as necessary in evaluating siltation and assuring compliance with department regulations.

(x) A major violation will occur in the state tracts designated in this section for any of the following: failure to map and mark the edges of all exposed reefs within 1,500 feet of any dredging within an authorized tract; dredging within 100 feet of an exposed reef; dredging an exposed reef 1/2 acre or larger; dredging an exposed reef of less than 1/2 acre without permission from the director or the department agent; dredging in a tract not designated as open by the director; returning to dredge in a tract previously open but which has been permanently closed by the director; operating more than one dredge at one time; failure to use a silt screen around the discharge pipe when required to do so by the department agent; and failure to respond to a stop activity order given as a result of any violation.

(2) Shell dredging operators will be required to secure permits from the director of the department to dredge shell and mudshell in areas authorized to be dredged under these sections [this policy] and under such terms and conditions as may be prescribed from time to time by the director.

(3) No permittee will have or be given the exclusive right to dredge and produce shell in any certain area covered by these sections [this policy], and no permittee is authorized to operate more than one dredge at one time in any portion of San Antonio Bay and not more than one dredge will operate at one time regardless of the number of permittees.

(4)-(6) (No change.)

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811703 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Proposed Date of Adoption: April 20, 1981
For further information, please call (512) 475-4954.

Prices of Sand, Shell, and Gravel

The Texas Parks and Wildlife Commission proposes to amend §57.101 (127.30.07.001). The commission proposes to increase the price of all grades of shell removed from state-owned submerged tidelands from \$.25 to \$1.25 per cubic yard, subject to approval of the governor. The price of shell has not been increased since 1973. It would now appear that a substantial price increase is warranted to prevent the continued erosion of department revenues due to general inflationary trends.

The staff of the Parks and Wildlife Department (Fisheries Division) estimates that the adoption of the proposed amendment will increase revenue to the Game, Fish, and Water Safety Fund (Fund 9) as follows:

Fiscal Year	State
1981	\$ 305,250
1982	\$1,221,000
1983	\$1,221,000
1984	\$1,221,000
1985	\$1,221,000

The proposed amendment has no fiscal implications for units of state or local government, according to agency personnel.

Comments are invited and may be submitted by contacting Leland Roberts, Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

This amendment is proposed under the authority of Texas Parks and Wildlife Code, §86.012.

§57.101 (127.30.07.001). Prices. The commission, with approval of the governor, [effective January 1, 1973,] establishes a price of \$.20 per cubic yard on sand and gravel and **\$1.25** [\$.25] per cubic yard on all grades of shell removed from state-owned submerged tidelands. *The price of shell will hereafter be adjusted at the beginning of each calendar quarter, starting with the fourth quarter of 1981, to reflect any increase or decrease percent of change, in the consumer price index of retail sales as prepared by the Bureau of Labor Statistics, U.S. Department of Labor (using the National Consumer Price Index, all urban consumers, 1967 equals 100) except that any adjustment for the fourth quarter of 1981 will be based upon the Consumer Price Index statistics compiled for the second quarter of 1981 and each succeeding quarter will be adjusted in the same manner in order to provide permittees advanced notice of price adjustments, and except that the price of shell per cubic yard will be rounded off to the nearest whole cent and will not be adjusted in any quarter to less*

than the base price of \$1.25 per cubic yard as established in this section. In addition, 3.0% of all shell dredged from state-owned submerged tidelands north of North Latitude 28° and 22 minutes in San Antonio Bay will be delivered to points designated by the department in Texas bays and spread at permittee's expense for reef enhancement. Effective September 1, 1981, and for the fiscal year 1982 (September 1, 1981, through August 31, 1982), and for each year thereafter, the department's cost of monitoring the dredging operations in San Antonio Bay not to exceed \$50,000 will be assessed against each permittee in proportion to the quantity (percentage of the total) shell removed by each permittee. The maximum monitoring cost of \$50,000 will be adjusted each fiscal year thereafter using the Consumer Price Index (CPI-U) for the preceding 12-month period except that the maximum monitoring cost will not be adjusted below \$50,000. Unless otherwise indicated in this section, this section takes effect on the first day of the next month immediately following the 20-day filing period for final rules required by the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811704 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Proposed Date of Adoption: April 20, 1981
For further information, please call (512) 475-4954.

Chapter 65. Wildlife

Subchapter A. Statewide Hunting, Fishing, and Trapping

The Texas Parks and Wildlife Commission proposes to amend §65.6, §65.11, §65.14, §65.16, §65.23, §65.26, §65.33, §65.34, §65.39, §65.46, §§65.61-65.63, §65.73, and §65.81 (127.70.01.305, .310, .313, .315, .322, .325, .332, .333, .338, .345, .360-.362, .372, and .380). Sections 65.1-65.91 (127.70.01.300-.390) constitute the statewide hunting, fishing, and trapping proclamation.

The commission is responsible for regulating by proclamation the periods of time, means, methods, manners, and places for taking wildlife resources in counties where the Uniform Wildlife Regulatory Act applies. The Act provides a flexible law to enable the commission to deal effectively with changing conditions to prevent depletion and waste of wildlife resources.

Fluctuations in wildlife resource populations require that the above sections be amended for the 1981-82 hunting, fishing, and trapping seasons. Additional amendments are being proposed to clarify the text and remove statutory language.

The proposed amendments are briefly summarized below, by sections.

§65.6 (127.70.01.305) redefines a buck deer in Comal, Kendall, Kerr, Medina, and Real Counties, deletes migratory game birds from text, and clarifies definition of monofilament;

§65.11 (127.70.01.310) removes statutory language;

§65.14 (127.70.01.313) clarifies text by inserting phrase—except migratory game birds;

§65.16 (127.70.01.315) clarifies text by inserting phrase—except migratory game birds;

§65.23 (127.70.01.322) clarifies text concerning antlerless deer permits;

§65.26 (127.70.01.325) requires buck permits for four additional south Texas counties;

§65.33 (127.70.01.332) fixes the ending date of most county's white-tailed deer season as the first Sunday in January, reduces white-tailed buck deer bag limit in 13 north Texas counties, increases buck deer bag limit in Kinney and Medina Counties, provides for either sex hunting, without antlerless deer permits in 22 counties, provides Robertson County with a deer bag limit that includes antlerless deer, deletes the four day either sex hunting season in Bosque, Erath, and Tyler Counties, provides an archery only deer season in four counties, reduces the archery only deer bag limit to correspond with regular season bag limit reduction, provides an increased deer bag limit during archery only seasons for Houston, Jasper, and Red River Counties, and provides a standard archery only deer bag limit for Kinney and Medina Counties;

§65.34 (127.70.01.333) provides for a standard length javelina season in Medina and Sutton Counties, provides a bag limit on javelina in Edwards, Frio, Kerr, and Real Counties;

§65.39 (127.70.01.338) deletes permit requirement for taking aoudad sheep in counties where aoudad sheep are defined as game animals;

§65.46 (127.70.01.345) provides Palo Pinto County with general and archery only turkey seasons, closes the turkey season in 15 western Panhandle Counties, provides Pecos and Terrell Counties with a standard length general season and a bag limit of one turkey either sex, provides Sutton County with an either sex turkey bag limit, deletes Hays County from the archery only turkey season, provides a spring gobble season in 64 additional counties, and expands the area in six East Texas counties where spring gobble hunting is permitted;

§65.61 (127.70.01.360) closes Old Marlin City Lake to fishing;

§65.62 (127.70.01.361) prohibits the retention of bass less than 14 inches in length in Bryson and Cottonwood Lakes and reduce bag limit, prohibits the retention of bass between 14 and 18 inches in length in Monticello Lake, reduces the bag limit on hybrid striped bass in Calaveras Lake, prohibits the retention of Nile perch and peacock bass less than 16 inches in length, and provides standard regulations for game fish in the Nueces River, Blanco Creek, and Sarco River;

§65.63 (127.70.01.362) prohibits trotlines, throwlines, and juglines in Old Anson Lake, allows 60-foot minnow seines in the Canadian River and 10 additional North Texas counties, prohibits netting in Liberty and San Jacinto Counties, Houston County lake and prohibits netting in the Trinity River between Polk and San Jacinto Counties, prohibits netting in Calhoun, Fayette, and Jackson Counties, and prohibits netting in Victoria County except in Coletto Creek

and in the San Antonio River between Goliad and Victoria Counties, and Colorado County except in the San Bernard River;

§65.73 (127.70.01.372) prohibits the use of air boats and jet-driven devices to pursue and harass or harry redbird and trout, clarifies text concerning monofilament, reformats to clarify text concerning hotbottom lines, renames St. Joseph Island, and requires that perch traps be buoyed and identified; and

§65.81 (127.70.01.380) provides new text that does not conflict with penalty statutes concerning Hynes Bay and deletes language that is redundant.

The proposed amendments are subject to change as a result of public hearing testimony obtained during the week of March 16-20, 1981, in compliance with Texas Parks and Wildlife Code, §61.101. The amendments are also subject to change by the commissioners court of a county listed in Texas Parks and Wildlife Code, §61.202(e) and 230.051.

The department staff (Wildlife Division) has determined that the adoption of the proposed amendments will have no fiscal implications for the state or units of local governments.

Comments on the proposed amendments may be submitted by contacting Phil Evans, regulatory coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4875. Comments must be received within 30 days of the publication of the proposed amendments in the *Texas Register*.

The amendments are proposed under the authority of the Texas Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act.

§65.1 (127.70.01.300) *Application* Except as provided by the Texas Parks and Wildlife Code, Title 7, this subchapter applies to all of the wildlife resources (except migratory game birds) in the regulatory counties of Texas.

§65.6 (127.70.01.305). *Definitions* The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Antlerless deer—A deer having no hardened antler protruding through the skin.

Bearded hen—A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

Buck deer—A deer having a hardened antler protruding through the skin[, except in Comal, Kendall, Kerr, Medina, and Real Counties, where a "buck deer" is a deer with forked antler].

Daily bag limit—The quantity of a species of game that may be taken in one day (Texas Parks and Wildlife Code, §61.005(5)).

Fur-bearing animals—Wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, nutria, or civet cat (Texas Parks and Wildlife Code §71.001).

Game Animals—Include the following:

(A) Wild deer, wild elk, wild antelope, wild desert bighorn sheep, wild black bear, wild gray or cat squirrels, wild fox squirrels or red squirrels, and collared peccary or javelina (Texas Parks and Wildlife Code, §63.001).

(B) In Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher Counties only, aoudad sheep are game animals (Texas Parks and Wildlife Code, §63.001).

(C) In Bexar County, nonindividually owned axis deer are wildlife resources as follows (Texas Parks and Wildlife Code, §115.001):

(i) A nonindividually owned axis deer in Bexar County is defined as an animal that has not been released for stocking purposes on property that is enclosed by a deer-proof fence.

(ii) An animal that has not been stocked on property where the landowner has a bill of sale or other legal document verifying a transaction has transpired whereby ownership of individually owned axis deer has been consummated.

Game birds—Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild Mearns' quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes (Texas Parks and Wildlife Code, §64.001).

Green pelt—A fur-bearing animal pelt that has not been tanned.

Hunt—Includes take, kill, pursue, trap, and the attempt to take, kill, or trap (Texas Parks and Wildlife Code, §61.005(1)).

Jugline—A free-floating main fishing line with five or less hooks attached, the minimum hook interval is three horizontal feet and the main line is tied to a free-floating device.

[Migratory game birds—Wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jack snipe, woodcock, mourning doves, white-winged doves, and sandhill cranes (Texas Parks and Wildlife Code, §64.021). This subchapter does not apply to migratory game birds.]

Monofilament—A single [untwisted] synthetic filament.

Per season—The period of time for which a hunting license is valid whether or not the taking of wildlife is permitted in one or more periods during this time.

Possession limit—The maximum number of a species of game that may be possessed at one time (Texas Parks and Wildlife Code, §61.005(6)).

Rough fish—Carp, suckers, buffalo, gar, shad, Rio Grande perch, drum or gaspergou, bowfin or grindle, pickerel, mullet, and goldfish.

Sail line—A type of trotline permitted only in saltwater with one end of the line fixed on the shore, pier, or jetty, the other end of the line attached to a wind-powered device or sail with no more than 30 hooks, with no hook placed more than 200 feet from the sail, no more than one sail line per fisherman, who must attend the line at all times the line is fishing.

Shad trawl—A trawl having a mouth no larger than 36 inches in diameter and being no longer than six feet which may be equipped with a funnel or throat and which must be towed by boat or by hand.

Snagline—A type of trotline with unbaited hooks spaced not less than six inches apart set only in saltwaters not more than two feet in depth at mean low tide.

Texas Parks and Wildlife Department or department—As the context requires, the Parks and Wildlife

Department, or a specifically authorized employee of the department.

Throwline—A main fishing line with five or less hooks attached, the minimum hook interval is three horizontal feet, and with one end permanently attached to a permanent fixture.

Trotline—Includes a sail line and or rubber band line and shall be constructed of nonmetallic materials, and is a main fishing line with more than five hooks attached and the minimum hook interval is three horizontal feet.

Upstream boundary of Sam Rayburn Reservoir on the Angelina River—The Texas Eastern Transmission Company pipeline.

Wildlife resources—All game animals, gam birds, fur-bearing animals, alligators, marine animals, fish, and other aquatic life (Texas Parks and Wildlife Code, §61.005(2)).

§§65.7-65.10 (127.70.01.306-.309). *Reserved for Future Expansion.*

§65.11 (127.70.01.310). *Open Seasons: General Rules.*

(a) Open seasons are given by their opening and closing dates and include all days between the opening and closing dates.

(b) There is no open season on game animals, game birds, or fur-bearing animals on state game preserves, statutory wildlife sanctuaries, United States wildlife refuges, and on public roads and highways, or rights-of-way of such public roads and highways, and in the state-owned riverbeds in Dimmit, Uvalde, and Zavala Counties including but not limited to the Nueces and Frio Rivers.

(c) There shall be an open season on fish, game animals, game birds, and fur-bearing animals on national wildlife refuges as may be provided by the state and federal laws, or rules and regulations.

(d) Seasons are closed during the hours between 1/2 hour after sunset and 1/2 hour before sunrise, except on fur-bearing animals and fish.

(e) It is unlawful to take or attempt to take any of the wildlife resources of the regulatory counties, except during the open season as indicated in these sections.

(f) In counties where only bearded turkey (gobblers or bearded hens) are legal, the beard shall remain on the turkey until it reaches its final destination and is fully processed.

(g) It is unlawful for a person who kills a deer, including axis deer taken in Bexar County that are not individually owned, to possess the deer or any part of the deer without the antlers, antlerless permit (except as provided by §65.23(h) and (i) (127.70.01.322 (h) and (i) of this title (relating to Antlerless Deer Permits), or a receipt from a taxidermist for the head accompanying the deer or parts of the deer until the deer has been delivered to its final destination and is fully processed.

(h) It is unlawful for a person who kills a deer, including axis deer taken in Bexar County that are not individually owned, or turkey, to possess the deer or turkey or any part of the deer or turkey without a legible properly completed deer or turkey tag from his valid hunting license attached to the deer or turkey or part of the deer or turkey until it has been delivered to its final destination and is fully processed.

(i) Nothing in this subchapter shall be construed to prevent a person from possessing a part of the deer or turkey if the person has a legible document attached to the part of the deer or turkey which has been signed by the person who killed the deer or turkey, bearing his address, date of kill,

hunting license number, and name of the ranch and county where the deer or turkey was killed.

(j) It is lawful for a person to possess the entire deer or turkey if a legible, properly completed tag from the hunting license of the person who killed the deer or turkey is attached.

(k) Final destination is the permanent residence of a person who possesses a deer or turkey or part of a deer or turkey, or a commercial processing facility where it is finally processed.

(l) Nothing in this subchapter shall be construed to authorize a person to exceed a bag limit or to hunt deer or turkey during the closed season provided for deer or turkey. The fact that a deer or turkey tag or legible document is attached to a deer or turkey shall not be prima facie evidence that such a deer or turkey was lawfully killed.]

(h) [(m)] No antlerless deer permit [or special tag] will be required to possess an antlerless deer taken with longbow and arrow during the [prescribed] archery only open season, except as provided by Texas Parks and Wildlife Code, Title 7.

(i) [(n)] Every game bird or game animal wounded by hunting and reduced to possession by the hunter must be killed immediately and become a part of the daily bag limit.

(j) [(o)] Each game bird, game animal, fur-bearing animal, and fish taken or possessed in violation of the provisions of this subchapter shall constitute a separate offense (Texas Parks and Wildlife Code, §61.901(a)).

(k) [(p)] The taking or shooting of turkeys from a roost is unlawful.

(l) [(q)] It is unlawful for a person who kills an antelope to remove all evidence of sex, to possess an antelope or any part of an antelope without the head and cape, the antelope permit, or a receipt from a taxidermist for the head accompanying the antelope or parts of the antelope until the antelope has been delivered to its final destination and is fully processed.

(m) [(r)] A person may give a portion of an antelope carcass to someone if the person attaches to the portion of the antelope a legible document bearing the hunter's name and address, date of kill, hunting license number, antelope permit number, name of ranch, and the county where the antelope was killed.

§65.13 (127.70.01.312). *Means and Methods.* It is unlawful to hunt any of the wildlife resources of this state, except by the means and methods authorized by this section; §65.14 (127.70.01.313) of this title (relating to Firearms); §65.15 (127.70.01.014) of this title (relating to Archery); §65.16 (127.70.01.015) of this title (relating to Hunting from Vehicle); §65.17 (127.70.01.016) of this title (relating to Hunting Deer with Dogs); §65.18 (127.70.01.017) of this title (relating to Falconry), and §65.19 (127.70.01.018) of this title (relating to Calling Devices).

§65.14 (127.70.01.313). *Firearms.*

(a) It is lawful to shoot game animals and game birds (*except migratory game birds*) with a rifle, shotgun, or other legal firearm, except it is unlawful to shoot prairie chickens with a rifle.

(b) It is unlawful to use rimfire ammunition, jet gun, or rocket gun in taking or shooting, or attempting to take or shoot, deer, elk, antelope, desert bighorn sheep, or aoudad sheep in Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher Counties.

(c) It is unlawful to hunt deer or turkey with a firearm or possess a firearm while hunting deer or turkey with a longbow and arrow during the archery season.

(d) Subsection (c) of this section does not prohibit the possession of a shotgun in accordance with Texas Parks and Wildlife §62.054 or as excepted by Texas Parks and Wildlife Code, Title 7.

§65.15 (127.70.01.314). *Archery.*

(a) It is lawful to hunt all game birds and game animals during open seasons provided therefor with a longbow and arrow only if:

(1) the bow is capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

(2) the arrow is equipped with a broadhead hunting point at least 7/8 inch in width and not over 1-1/2 inches in width;

(3) the arrow bears the name and address of the user in a nonwater soluble medium; and

(4) the arrow is not poisoned, drugged, or explosive.

(b) It is unlawful to use a crossbow.

§65.16 (127.70.01.315). *Hunting from Vehicle.*

(a) It is unlawful to shoot at any game bird or game animal from any boat under sail or power or from any aircraft or airborne device.

(b) Game animals and game birds (*except migratory game birds*) may be taken from an automobile by a person who is within the boundaries of private property and who is legally on the property for the purpose of hunting. Such person may not hunt from any public road in the state.

(c) It is unlawful to hunt pheasant with the aid of a cable, chain, rope, or other device connected between moving objects.

§65.17 (127.70.01.316). *Hunting Deer with Dogs.*

(a) It is unlawful to use a dog or dogs in hunting, pursuing, or taking deer in all regulatory counties, except Hardin County; that portion of Harrison County south of Interstate Highway 20 and east of State Highway 43; Jasper, Newton, Orange, Panola, Polk, and Tyler Counties.

(b) It is lawful to use not more than two dogs in trailing a wounded deer in all regulatory counties, except Bowie, Camp, Fannin, Franklin, Harris, Harrison (north of Interstate Highway 20 and west of State Highway 43), Houston, Hunt, Jefferson, Lamar, Liberty, Montgomery, Nacogdoches, Red River, Rockwall, Rusk, San Augustine, Titus, Trinity, Walker, Washington, Winkler, and Wood Counties.

(c) A wounded deer is defined as one leaving a blood trail.

§65.18 (127.70.01.317). *Falconry.*

(a) It is lawful to hunt and take any game bird (except Attwater's prairie chickens and migratory game birds), game animal, or fur-bearer by means of falconry, but the hunting or taking is limited to persons holding valid permits issued by the department.

(b) It is lawful to take game bird wildlife resources during the period beginning September 1 through March 1 of each year. Game animal and fur-bearer wildlife resources may be taken only during the regular open seasons as provided.

(c) The daily bag limit for game bird wildlife resources is one, either sex, per raptor and the possession limit is two, either sex, per raptor. The daily bag and possession limit for

game animal and fur-bearing wildlife resources is as provided under the regular seasons, bag, and possession limits for these resources.

(d) No person may possess a firearm or longbow and arrow or be accompanied by a person possessing a firearm or longbow and arrow while hunting by means of falconry.

§65.19 (127.70.01.318). Calling Devices. It is unlawful to use recorded or electrically amplified calling devices to attract game animals and game birds.

§65.20 (127.70.01.319). Reserved for Future Expansion.

§65.21 (127.70.01.320). Permits.

(a) No person may hunt pronghorn antelope, elk, or antlerless deer in areas where permits are prescribed unless he first procures a valid permit from the department.

(b) It is unlawful to use an antelope, elk, or antlerless deer permit on more than one antelope, elk, or antlerless deer.

(c) No permit is required to hunt antlerless deer on the Aransas National Wildlife Refuge in Aransas County and the Laguna Atascosa National Wildlife Refuge in Cameron County.

(d) No permit is valid unless it has been issued, used, and possessed strictly in accordance with this section; §65.22 (127.70.01.321) of this title (relating to Antelope Permits); §65.23 (127.70.01.322) of this title (relating to Antlerless Deer Permits); and §65.24 (127.70.01.323) of this title (relating to Elk Permits).

§65.22 (127.70.01.321). Antelope Permits.

(a) The department shall designate the number of antelope to be harvested from a given tract of land and shall issue a like number of permits to the owner or authorized agent of the tract.

(b) No person may hunt antelope unless he is carrying on his person a permit duly issued and signed by the landowner or his agent.

(c) It is unlawful to possess an antelope which does not have attached to it an antelope permit on which appear:

- (1) the date of kill;
- (2) the hunter's name; and
- (3) the signature of the owner or agent of the tract on which the antelope was killed.

§65.23 (127.70.01.322). Antlerless Deer Permits.

(a) In all counties where antlerless deer are to be harvested, the department shall issue antlerless deer hunting permits, except where subsections (h) and (i) of this section apply, for designated tracts of land only to the landowners or their agents only after the owners or agents have applied in writing for the exact number of permits to be used on the designated tracts.

(b) It is unlawful to falsify ownership of land or amount of acreage owned or leased when applying for antlerless deer permits.

(c) It is unlawful for a landowner or agent to issue an antlerless deer hunting permit to a hunter to hunt on a tract of land other than the designated tract for which the permit was issued.

(d) The owners or agents shall then issue permits to individual hunters before the hunter begins his hunt on the designated tracts.

(e) It is unlawful for a person to possess an antlerless deer, including axis deer taken in Bexar County, that are not

individually owned, unless the person has been issued an antlerless deer hunting permit on which appear:

- (1) the date of kill;
- (2) the hunter's name; and
- (3) the signature of the owner or agent on whose tract the deer was killed.

(f) It is unlawful for a hunter to use an antlerless deer hunting permit on a tract of land other than the designated tract for which the permit was issued.

(g) The permit shall be attached to the foreleg of each antlerless deer taken and shall remain attached until the deer has been fully processed.

(h) No antlerless deer permit is required for a deer legally killed with longbow and arrow during the archery only open season (§65.33(2) and (4) (127.70.01.332(2) and (4) of this title (relating to Deer)), when bag limits are designated as either sex.

(i) No antlerless deer permit is required for deer legally taken during white-tailed deer regular open seasons (§65.33(1) (127.70.01.332(1) of this title (relating to Deer))), when *regulations provide that antlerless deer may be taken without an antlerless deer permit* [bag limits are designated as either sex].

§65.24 (127.70.01.323). Elk Permits.

(a) The department shall designate the number of elk to be harvested from a tract of land and shall issue a like number of permits to the owner or authorized agent of such tract.

(b) No person may hunt elk unless he is carrying on his person a permit duly issued and signed by the landowner or his agent.

(c) It is unlawful to possess an elk which does not have attached to it an elk permit on which appear:

- (1) the date of kill;
- (2) the hunter's name; and
- (3) the signature of the owner or agent of the tract on which the elk was killed.

§65.26 (127.70.01.325). Buck Deer Permits for Dimmit, Frio, LaSalle, Maverick, Webb, [and] Zapata, and Zavala Counties.

(a) In *Dimmit, Frio, LaSalle, Maverick, Webb, [and] Zapata, and Zavala* Counties, the department shall issue buck deer permits for designated tracts only to landowners or their agents only after the owners or agents have applied in writing for the number of permits to be used on the designated tracts.

(b) It is unlawful to falsify ownership of land or amount of acreage owned or leased when applying for buck deer permits.

(c) The owners or agents shall then issue permits to individual hunters before the hunter begins his hunt on the designated tracts.

(d) It is unlawful for a person to possess a buck deer with a forked antler unless such person has been issued a buck deer hunting permit on which appear:

- (1) the date and hour of kill;
- (2) the hunter's name and address; and
- (3) the signature of the hunter and owner or agent on whose tract the deer was killed.

(e) The permit shall be attached to each buck deer with a forked antler taken and shall remain attached until the deer has been delivered to its final destination and fully processed.

(f) Final destination is the permanent residence of a person who possesses a deer or part of a deer, or a commercial processing facility where it is finally processed.

(g) A buck deer permit will not be required during the archery only open season.

(h) It is unlawful for a hunter to use a buck deer hunting permit on a tract of land other than the designated tract for which the permit was issued.

(i) It is unlawful to use a buck deer permit on more than one buck deer.

(j) All landowners or agents who receive buck deer hunting permits shall return the fully completed stubs from used permits and all unissued permits and stubs to the issuing officer not later than 15 days after the close of the hunting season, and it is unlawful to fail to do so.

§§65.28-65.30 (127.70.01.327-329). Reserved for Future Expansion.

§65.31 (127.70.01.330). Open Seasons and Bag Limits for Game Animals. It is unlawful to hunt a game animal at any time other than during the open seasons provided in this section; *§65.32 (127.70.01.331)* of this title (relating to Antelope: Open Seasons and Bag Limits); *§65.33 (127.70.01.332)* of this title (relating to Deer); *§65.34 (127.70.01.333)* of this title (relating to Javelina: Open Seasons and Bag Limits); *§65.35 (127.70.01.334)* of this title (relating to Squirrel: Open Seasons, Bag, and Possession Limits); *§65.36 (127.70.01.335)* of this title (relating to Desert Bighorn Sheep); *§65.37 (127.70.01.336)* of this title (relating to Bear: Open Seasons and Bag Limits); *§65.38 (127.70.01.337)* of this title (relating to Elk: Open Seasons and Bag Limits); *§65.39 (127.70.01.338)* of this title (relating to Aoudad Sheep: Open Seasons and Bag Limits) or to take more than the daily bag limits, or to have in possession a game animal taken at any time other than during the open season.

§65.32 (127.70.01.331). Antelope: Open Seasons and Bag Limits.

(a) In Andrews, Armstrong, Borden, Brewster, Carson, Cochran, Coke, Cottle, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Donley, Ector, El Paso, Floyd, Gaines, Garza, Glasscock, Gray, Hansford, Hartley, Hemphill, Hockley, Howard, Hudspeth, Hutchinson, Irion, Jeff Davis, Kent, Lipscomb, Lubbock, Lynn, Martin, Midland, Mitchell, Moore, Motley, Ochiltree, Oldham, Pecos, Potter, Presidio, Reagan, Reeves, Roberts, Scurry, Sherman, Sterling, Stonewall, Terrell, Terry, Winkler, and Yoakum Counties, there is an open season for antelope for nine consecutive days beginning the Saturday nearest October 1, and the bag limit is one antelope per season by permit only.

(b) There is no open season for antelope in any county other than those listed in subsection (a) of this section.

§65.33 (127.70.01.332). Deer The general statewide bag and possession limit is no more than four deer, no more than two mule deer, only one of which may be a buck mule deer, no more than two white-tailed bucks, and no more than three antlerless deer of all species combined (see *§65.6(h)* (127.70.01.305(h)) of this title (relating to Definitions) and *§65.26(d)* and (e) (127.70.01.325(d) and (e)) of this title (relating to Buck Deer Permits for *Dimmit, Frio, LaSalle, Maverick, Webb, [and] Zapata, and Zavala* Counties), for definition of buck deer).

(1) White-tailed deer: regular open seasons, bag, and possession limits shall be as follows:

(A) In Anderson, Aransas, [Archer, Bandera, Baylor,] Bee, Bosque, Brazoria, Brooks, Brown, Calhoun, Callahan, Cameron, Coleman, [Comal,] Comanche, Coryell, [Crockett,] DeWitt, *Dimmit*, Eastland, Ector, [Edwards,] Erath, Fort Bend, Freestone, Frio, [Gillespie] Glasscock, Goliad, Gonzales, Guadalupe, Hamilton, Hardin, Harris, [Hays,] Hidalgo, [Hood, Jack,] Jackson, Jasper, Jefferson, Jim Wells, Karnes, [Kendall, Kerr, Kimble,] Kleberg, [Lampasas,] LaSalle, Liberty, Limestone, Live Oak, [Llano, Mason,] Matagorda, Maverick, Midland, Montgomery, Nacogdoches, Newton, Orange, [Palo Pinto, Parker,] Polk, Reagan, [Real,] Refugio, *Robertson*, Runnels, San Augustine, San Patricio, [San Saba, Shackelford,] Somervell, Starr, [Stephens, Sutton,] Taylor, [Throckmorton,] Travis, Tyler, Upton, [Uvalde, Val Verde (east of the Pecos River),] Victoria, Walker, Ward, Webb, Wharton, [Wichita, Wilbarger,] Willacy, Wilson, [Wise, Young,] Zapata, and Zavala Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January. [unless that date falls after January 4, in which case the season will close January 1, and the bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.]

(B) In Atascosa, *Bandera*, Bell, Bexar, Blanco, Burnet, Coke, *Comal*, Concho, *Crockett, Edwards, Gillespie, Hays, Irion, Jeff Davis, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, Mason, McCulloch, Medina, Menard, Mills, Mitchell, Nolan, Pecos, Real, San Saba, Schleicher, Sutton, Sterling, Terrell, Tom Green, Uvalde, Val Verde*, and Williamson Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January. [unless that date falls after January 4, in which case the season will close January 1. The bag limit is three white-tailed deer, either sex, no more than two bucks, no antlerless permit required.]

(i) *The bag limit is three white-tailed deer, no more than two bucks.*

(ii) *Antlerless deer may be taken without an antlerless deer permit required by §65.21 (127.70.01.320) of this title (relating to Permits) and §65.23 (127.70.01.322) of this title (relating to Antlerless Deer Permits).*

(C) In Armstrong, Briscoe, Carson, Childress, Collingsworth, Cottle, Donley, Floyd, Gray, Hall, Hansford, Hardeman, Hemphill, Hutchinson, Lipscomb, Moore, Motley, Ochiltree, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, there is an open season for white-tailed deer beginning the Saturday before Thanksgiving for 16 consecutive days, and the bag limit is one white-tailed deer, buck or antlerless, antlerless by permit only.

(D) In Brewster, Culberson, Presidio, and Reeves Counties, there is an open season for white-tailed deer beginning the last Saturday in November for nine consecutive days. The bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.

(E) In Jeff Davis, Pecos, Terrell, and Val Verde (west of the Pecos River) Counties, there is an open season for white-tailed deer beginning the last Saturday in November through the first Sunday in January unless that date falls after January 4, in which case the season will close January 1. The bag limit is three white-tailed deer, either sex, no more than two bucks, no antlerless permit required, except in

Val Verde County (west of the Pecos River) where antlerless deer may be taken only by permit.]

(E) [(F)] In Borden, Crosby, Fisher, Garza, Haskell, Howard, Jones, Kent, Knox, Scurry, and Stonewall Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January. [unless that date falls after January 4, in which case the season will close January 1.] The bag limit is two white-tailed deer, no more than one buck, antlerless by permit only.

(F) [(G)] In Camp, Franklin, Lamar, Smith, and Titus Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through November 30. The bag limit is three white-tailed deer, no more than one buck, antlerless by permit only.

(G) [(H)] In Duval County [and Robertson Counties,] there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January [unless that date falls after January 4, in which case the season will close January 1.] and the bag limit is two white-tailed buck deer only.

(H) [(I)] In Harrison, Rusk, and Wood Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 for 30 consecutive days, and the bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only, except in Wood County where the bag limit is three white-tailed deer, no more than one buck, antlerless by permit only.

(I) [(J)] In Bowie County, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through November 30, and December 26 through December 31, and the bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.

(J) [(K)] In Fannin County, there is an open season for white-tailed deer beginning the Saturday nearest November 15 for five consecutive days and the bag limit is three white-tailed deer, no more than one buck, antlerless by permit only.

(K) [(L)] In Henderson County, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January [unless that date falls after January 4, in which case the season will close January 1.] and the bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only. In that portion of Henderson County bounded on the north by the county line, on the east by U.S. Highway 175 and Tin Can Alley Road, on the south by State Highway 31, and on the west by State Highway 274, hunting, shooting, or taking of deer is restricted to shotguns with buckshot or longbows and arrows, and other game birds or game animals may be taken only with shotgun or longbow and arrows.

(L) [(M)] In Austin, Archer, Bastrop, Baylor, Brazos, Burleson, Caldwell, Clay, Colorado, Cooke, Denton, Ellis, Falls, Fayette, Hill, Hood, Jack, Johnson, [Kinney,] Lavaca, Lee, Madison, McLennan, [Medina,] Milam, Montague, Navarro, Palo Pinto, Parker, Shackelford, Stephens, Tarrant, Throckmorton, Waller, [and] Washington, Wichita, Wilbarger, Wise, and Young Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January [unless that date falls after January 4, in which case the season will close January 1.] and the bag limit is three white-tailed deer, no more than one buck, antlerless by permit only.

(M) [(N)] In Houston and Trinity Counties, there is an open season for white-tailed deer as provided by the Parks and Wildlife Code, Title 7, and the bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.

(N) [(O)] In Dimmitt, Maverick, Webb, Zapata, and Zavala Counties, there is an additional open season for white-tailed antlerless deer beginning the last Saturday in October for 16 consecutive days, during which only antlerless white-tailed deer may be taken, by permit only.

(P) In Bosque, Erath, and Tyler Counties, there is a designated either sex open season for white-tailed deer beginning Thanksgiving Day through the Sunday after Thanksgiving Day, during which antlerless white-tailed deer may be taken without an antlerless deer permit. Antlerless deer taken during this designated special either sex open season must be checked at a department deer check station.]

(O) [(Q)] In Panola County, there is an open season for white-tailed deer beginning the Saturday before Thanksgiving for nine consecutive days, and December 24 through January 1. The bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.

(P) [(R)] In Red River County, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through November 30, and December 26 through December 31. The bag limit is three white-tailed deer, no more than one buck, antlerless by permit only.

(S) In Dimmitt County, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the third Sunday in December, and the bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.]

(Q) [(T)] In Andrews, Bailey, Castro, Cochran, Collin, Dallam, Dallas, Dawson, Deaf Smith, El Paso, Gaines, Grayson, Hale, Hartley, Hockley, Hudspeth, Hunt, Kaufman, Lamb, Lubbock, Lynn, Martin, Oldham, Parmer, Rockwall, Terry, Winkler, and Yoakum Counties, there is no regular open season for white-tailed deer.

(2) White-tailed deer: archery only open seasons, bag, and possession limits shall be as follows:

(A) In Anderson, Aransas, Atascosa, Bandera, Bee, Bell, Bexar, Bosque, Brazoria, Brewster, Brooks, Brown, Calhoun, Callahan, Cameron, Coke, Coleman, Comal, Comanche, Concho, Coryell, Crockett, Culberson, DeWitt, Eastland, Edwards, Erath, Fort Bend, Freestone, Frio, Goliad, Gonzales, Guadalupe, Hamilton, Hardin, Harrison, Hays, Henderson, Hidalgo, [Hood,] Irion, Jackson, Jasper, Jeff Davis, Jim Wells, Kendall, Kerr, Kimble, Kinney, Kleberg, Lampasas, LaSalle, Liberty, Live Oak, Matagorda, Maverick, Medina, Menard, Mills, Mitchell, Nolan, [Palo Pinto, Parker,] Pecos, Polk, Presidio, Reagan, Real, Reeves, Refugio, Robertson, Runnels, San Patricio, Schleicher, Somervell, Starr, [Stephens,] Sterling, Sutton, Taylor, Terrell, Tom Green, Tyler, Uvalde, Val Verde, Victoria, Walker, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala Counties, there is an open season during which white-tailed deer of either sex may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is three white-tailed deer, either sex, no more than two bucks.

(B) In [Archer, Baylor,] Bowie, Duval, Ector, Glasscock, Harris, [Jack, Jasper,] Jefferson, Karnes, Limestone, Midland, Montgomery, Nacogdoches, Newton, Orange, Panola, [Robertson,] Rusk, San Augustine,

[Shackelford, Throckmorton.] Upton, *and* Ward[, Wichita, Wilbarger, Wise, and Young] Counties, there is an open season during which white-tailed buck deer may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is two white-tailed buck deer.

(C) In Burleson, Colorado, *Hood*, Lavaca, McLennan, *Palo Pinto*, *Red River*, *Shackelford*, *Stephens*, *Throckmorton*, and Washington Counties, there is an open season during which white-tailed deer of either sex may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is three white-tailed deer, either sex, no more than one buck.

(D) In *Archer*, Armstrong, Austin, Bastrop, *Baylor*, Borden, Brazos, Briscoe, Caldwell, Camp, Carson, Childress, Clay, Collingsworth, Cooke, Cottle, Crosby, Denton, Donley, Ellis, Falls, Fannin, Fayette, Fisher, Floyd, Franklin, Garza, Gray, Hall, Hansford, Hardeman, Haskell, Hemphill, Hill, Howard, Hutchinson, *Jack*, Johnson, Jones, Kent, Knox, Lamar, Lee, Lipscomb, Madison, Milam, Montague, Moore, Motley, Navarro, Ochiltree, *Parker*, Potter, Randall, [Red River,] Roberts, Scurry, Sherman, Smith, Stonewall, Swisher, Tarrant, Titus, Waller, Wheeler, *Wichita*, *Wilbarger*, *Wise*, [and] Wood *and Young* Counties, there is an open season during which white-tailed buck deer may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is one white-tailed buck deer.

(E) In Kinney and Medina Counties, there is an open season during which white-tailed deer of either sex may be taken with longbows and arrows beginning October 1 and ending October 31. The bag limit is three white-tailed deer, either sex, no more than one buck.]

(E) [(F)] In *Houston and Trinity Counties* [County], there is an open season during which white-tailed deer of either sex may be taken with longbow and arrows beginning October 1 and ending October 31. The bag limit is three white-tailed deer, either sex, no more than two bucks.

[(G)] In Houston County, there is an open season during which white-tailed buck deer may be taken with longbow and arrows beginning October 1 and ending October 31. The bag limit is two white-tailed buck deer.]

(F) [(H)] In Andrews, Bailey, Castro, Cochran, Collin, Dallam, Dallas, Dawson, Deaf Smith, Dimmit, [Edwards,] El Paso, Gaines, Grayson, Hale, Hartley, [Hays,] Hockley, Hudspeth, Hunt, Kaufman, [Kendall,] Lamb, Lubbock, Lynn, Martin, Oldham, Parmer, [Real,] Rockwall, Terry, Winkler, and Yoakum Counties, there is no archery only open season for white-tailed deer.

(G) [(I)] The archery bag limit is not in addition to the regular open season bag limits for white-tailed deer.

(3) Mule deer: regular open seasons, bag, and possession limits shall be as follows:

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Cottle, Crosby, Dallam, Deaf Smith, Donley, Fisher, Floyd, Garza, Gray, Hall, Hartley, Haskell, Hemphill, Hutchinson, Jones, Kent, Knox, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Scurry, Stonewall, and Swisher Counties, there is an open season for mule deer beginning the Saturday before Thanksgiving for nine consecutive days and the bag limit is two mule deer, no more than one buck, antlerless by permit only.

(B) In Brewster, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Midland, Pecos, Presidio,

Reagan, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler Counties, there is an open season for mule deer beginning the last Saturday in November for nine consecutive days and the bag limit is two mule deer, no more than one buck, antlerless by permit only.

(C) In all other regulatory counties, there is no regular open season for mule deer.

(4) Mule deer: archery only open seasons, bag, and possession limits shall be as follows:

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Cottle, Crockett, Crosby, Dallam, Deaf Smith, Donley, Ector, El Paso, Fisher, Floyd, Garza, Gray, Hall, Hartley, Haskell, Hemphill, Hudspeth, Hutchinson, Jones, Kent, Knox, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Reagan, Roberts, Scurry, Stonewall, Swisher, Upton, Val Verde (east of the Pecos River only), Ward, and Winkler Counties, there is an open season during which mule deer only may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is one buck mule deer.

(B) In Brewster, Culberson, Jeff Davis, Pecos, Presidio, Reeves, Terrell, and Val Verde (west of the Pecos River only) Counties, there is an open season during which mule deer only may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is two mule deer, either sex, no more than one buck mule deer.

(C) In all other regulatory counties, there is no archery only open season for mule deer.

(D) The archery bag limit is not in addition to the regular open season bag limits for mule deer.

(5) Deer: national wildlife refuges. *Hunting season dates may further be restricted in compliance with regulations promulgated by the U.S. Fish and Wildlife Service and published in the Federal Register.*

(A) An open season on so much of the Aransas National Wildlife Refuge as lies in Aransas County is permitted during which white-tailed deer of either sex may be taken beginning September 16 through October 15. The bag limit is three white-tailed deer, no more than two bucks. A metal box-car type seal issued by the Parks and Wildlife Department must be attached to the deer carcass at the Aransas National Wildlife Refuge's deer checking station.

(B) On the Laguna Atascosa National Wildlife Refuge in Cameron County, a metal box-car type seal issued by the Parks and Wildlife Department must be attached to the deer carcass at the Laguna Atascosa National Wildlife Refuge's deer checking station.

§65.34 (127.70.01.333). Javelina: Open Seasons and Bag Limits.

(a) In Andrews, Blanco, Caldwell, Calhoun, Coke, Comal, Concho, DeWitt, Ector, Gillespie, Glasscock, Gonzales, Guadalupe, Hays, Howard, Irion, Kendall, Llano, Martin, Mason, McCulloch, Midland, Mitchell, Nolén, Reagan, Runnels, San Saba, Sterling, Taylor, Tom Green, Upton, Victoria, Ward, and Winkler Counties, there is an open season on javelina beginning the first Saturday in October through the last Sunday in February. The bag limit is two javelina per season. The possession limit is two javelina.

(b) In Aransas, Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, *Edwards*, El Paso, *Frio*, Hidalgo, Hudspeth, Davis, Jim Wells, Karnes, *Kerr*, Kimble, Kinney, Kleberg, LaSalle,

Live Oak, Maverick, **Medina**, Menard, Pecos, Presidio, **Real**, Reeves, San Patricio, Schleicher, Starr, **Sutton**, Terrell, Uvalde, Val Verde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, there is no closed season and a bag limit of two javelina per season. The possession limit is two javelina.

(c) In Medina and Sutton Counties, there is an open season for javelina beginning October 1 through the first Sunday in January unless that date falls after January 4, in which case the season will close on January 1. The bag limit is two javelina per season.

(d) In Edwards, Frio, Kerr, and Real Counties, there is no closed season or bag limit for javelina.]

(c)[(e)] In all other regulatory counties, there is no open season for javelina.

§65.35 (127.70.01.334). Squirrel: Open Seasons, Bag, and Possession Limits.

(a) In Archer, Baylor, Bell, Bosque, Brazos, Burleson, Callahan, Clay, Coleman, Collin, Colorado, Comanche, Cooke, Coryell, Dallas, Denton, Eastland, Ellis, Erath, Falls, Fayette, Grayson, Grimes, Hamilton, Hill, Hood, Jack, Jackson, Johnson, Kaufman, Lavaca, Lee, Madison, Matagorda, McLennan, Milam, Montague, Palo Pinto, Parker, Pecos, Rockwall, Shackelford, Somervell, Stephens, Tarrant, Terrell, Throckmorton, Washington, Wharton, Wichita, Wilbarger, Williamson, Wise, and Young Counties, there is no closed season for squirrel. The bag and possession limits are 10 squirrels per day and 20 in possession.

(b) In Anderson, Bowie, Brazoria, Camp, Fannin, Fort Bend, Franklin, Freestone, Hardin, Harris, Harrison, Henderson, Houston, Hunt, Jasper, Jefferson, Lamar, Liberty, Montgomery, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Red River, Robertson, Rusk, San Augustine, Titus, Trinity, Tyler, Walker, and Wood Counties, there is an open season for squirrel beginning May 1 through May 31, and October 1 through January 15. The bag and possession limits are 10 squirrels per day and 20 in possession.

(c) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, there is an open season for squirrel beginning May 1 through July 1, and October 1 through December 1. The bag and possession limits are five squirrels per day or in possession.

(d) In Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Presidio, and Reeves Counties, there is no open season on squirrel.

(e) In Limestone County, there is an open season for squirrel set by statute. The bag and possession limits are 10 squirrels per day and 20 in possession.

(f) In all other regulatory counties, there is no closed season and no bag limit on squirrels.

§65.36 (127.70.01.335). Desert Bighorn Sheep: Open Seasons and Bag Limits. The season on desert bighorn sheep is closed in all regulatory counties.

§65.37 (127.70.01.336). Bear: Open Seasons and Bag Limits. The season on bear is closed in all regulatory counties.

§65.38 (127.70.01.337). Elk: Open Seasons and Bag Limits. Elk may be taken in all regulatory counties by permit only. There is no closed season on elk and the bag limit is one.

§65.39 (127.70.01.338). Aoudad Sheep: Open Seasons and Bag Limits. In Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher Counties, there is an open season for aoudad sheep[. by permit only,] from the second Saturday before the opening of deer season for 14 consecutive days and from the first Saturday in January for 16 consecutive days. The bag and possession limit is one aoudad sheep per season [by permit only].

§65.40 (127.70.01.339). Reserved for Future Expansion.

§65.41 (127.70.01.340). Game Birds: Open Seasons and Bag Limits. It is unlawful to hunt a game bird at any time other than during the open seasons provided in this section; §65.42 (127.70.01.341) of this title (relating to Prairie Chicken: Open Seasons and Bag Limits); §65.43 (127.70.01.342) of this title (relating to Partridge: Open Seasons and Bag Limits); §65.44 (127.70.01.343) of this title (relating to Pheasant: Open Seasons, Bag, and Possession Limits); §65.45 (127.70.01.344) of this title (relating to Quail: Open Seasons, Bag, and Possession Limits); §65.46 (127.70.01.345) of this title (relating to Turkey); and §65.47 (127.70.01.346) of this title (relating to Chachalacas); and §65.48 (127.70.01.347) of this title (relating to Migratory Game Birds), or to take more than the daily bag limits, or to have in possession a game bird taken at any time other than during the open seasons.

§65.42 (127.70.01.341). Prairie Chicken: Open Seasons and Bag Limits.

(a) In Cochran, Collingsworth, Donley, Gray, Hemphill, Hockley, Lipscomb, Ochiltree, Roberts, Terry, Wheeler, and Yoakum Counties, there is an open season on prairie chicken beginning the third Saturday of October for two consecutive days. Only shotguns, falconry, and longbow and arrows may be used. Bag and possession limits are two prairie chickens per day and four in possession after the first day.

(b) In all other regulatory counties, there is no open season on prairie chicken.

§65.43 (127.70.01.342). Partridge: Open Seasons and Bag Limits. The season on partridge is closed in all regulatory counties.

§65.44 (127.70.01.343). Pheasant: Open Seasons, Bag, and Possession Limits.

(a) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, there is an open season for pheasants beginning the second Saturday of December for 16 consecutive days. Bag and possession limits are two cock pheasants per day and four in possession after the first day. Head and feet must remain attached to the pheasant carcass until it reaches its final destination.

(b) In Jefferson and Liberty Counties, there is an open season for pheasants beginning the Saturday nearest November 15 for 30 consecutive days. Bag and possession limits are two cock pheasants per day and four in possession after the first day. Head and feet must remain attached to the pheasant carcass until it reaches its final destination.

(c) In Matagorda County, there is an open season for pheasants beginning the Saturday nearest November 15 for 30 consecutive days, in that portion of Matagorda County within boundaries beginning at junctions of Jackson-

Matagorda County line and Highway 35, east and north along Highway 35 to its junction with FM Road 2853; thence along FM 2853 to Blessing, continuing west from Blessing along FM 616 to its junction with FM Road 1862, then southwest along FM 1862 to the Jackson-Matagorda County line, with the county line being the westernmost boundary which continues south to the intersection with State Highway 35. Bag and possession limits are two cock pheasants per day and four in possession after the first day. Head and feet must remain attached to the pheasant carcass until it reaches its final destination.

(d) In Wharton County, there is an open season for pheasants beginning the Saturday nearest November 15 for 30 consecutive days, only in that area bounded by Highway 59 on the north, the Colorado River on the east, the Matagorda County line on the south, and the Jackson County line on the west. Bag and possession limits are two cock pheasants per day and four in possession after the first day. Head and feet must remain attached to the pheasant carcass until it reaches its final destination.

(e) In all other regulatory counties, there is no open season on pheasants.

§65.45 (127.70.01.344). Quail: Open Seasons, Bag, and Possession Limits.

(a) In Andrews, Aransas, Armstrong, Atascosa, Bailey, Bee, Bexar, Borden, Brewster, Briscoe, Cameron, Carson, Castro, Childress, Cochran, Coke, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dimmit, Donley, Duval, Ector, El Paso, Fisher, Floyd, Frio, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hartley, Haskell, Hemphill, Hidalgo, Hockley, Howard, Hudspeth, Hutchinson, Irion, Jeff Davis, Jim Wells, Jones, Karnes, Kent, Kinney, Kleberg, Knox, Lamb, LaSalle, Lipscomb, Live Oak, Lubbock, Lynn, Martin, Maverick, Medina, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Runnels, Scurry, Sherman, Starr, Sterling, Stonewall, Swisher, Taylor, Terrell, Terry, Tom Green, Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Yoakum, Zapata, and Zavala Counties, there is an open season for quail beginning the last Saturday in October through the Sunday nearest January 31. The commission has deferred adopting quail daily bag and possession limits until annual late summer production surveys are evaluated.

(b) In Cottle, Hardeman, and Wheeler Counties, there is an open season for quail beginning December 1 through January 31. The commission has deferred adopting quail daily bag and possession limits until annual late summer production surveys are evaluated.

(c) In all other regulatory counties, there is an open season for quail beginning the Saturday nearest November 15 through the Sunday nearest February 15. The commission has deferred adopting quail daily bag and possession limits until annual late summer production surveys are evaluated.

(d) There is no open season on Mearn's quail, commonly called fool's quail.

§65.46 (127.70.01.345). Turkey.

(a) General open season. In all regulatory counties except as set out in subsection (d) of this section, the season on turkey is the Saturday nearest November 15 through the first Sunday in January, unless that date falls after January 4, in which case the season will close on January 1).

(b) Archery only season. There is an open season on turkey in all regulatory counties, except as set out in subsection (d) of this section, beginning the first Saturday in October for 30 consecutive days, during which turkey gobblers or bearded hens may be taken with longbow and arrows.

(c) Bag limit. The bag limit is two turkeys, gobblers, or bearded hens, except as set out in subsection (d) of this section.

(d) Exceptions to general open season, archery season, or bag limits.

(1) In Anderson, **Andrews**, Austin, **Bailey**, Bastrop, Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Cameron, Camp, **Castro**, **Cochran**, Collin, Colorado, Cooke, Culberson, Dallas, **Deaf Smith**, Denton, DeWitt, Ellis, El Paso, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, **Gaines**, Gonzales, Grayson, Grimes, Guadalupe, **Hale**, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, **Hockley**, Houston, Hudspeth, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Kaufman, Lamar, **Lamb**, Lavaca, Lee, Liberty, Limestone, **Lubbock**, Madison, McLennan, Milam, Montgomery, Nacogdoches, Navarro, Newton, Orange, [Palo Pinto,] Panola, Parker, **Parmer**, Polk, Presidio, Red River, Reeves, Robertson, Rockwall, Rusk, San Augustine, Starr, Tarrant, **Terry**, Titus, Trinity, Tyler, Victoria, Walker, Waller, **Ward**, Washington, Wharton, **Winkler**, Wise, Wood, **Yoakum**, and Zapata Counties, there is no general or archery only season on turkey.

(2) In Armstrong, [Bailey,] Briscoe, Carson, [Castro,] Childress, Collingsworth, Cottle, Dallam, [Deaf Smith,] Donley, Floyd, Gray, [Hale,] Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, [Lamb,] Lipscomb, Moore, Motley, Ochiltree, Oldham, [Parmer,] Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, there is an open season on turkey beginning the Saturday before Thanksgiving for 16 consecutive days. There is an archery only season beginning the first Saturday in October for 30 consecutive days during which turkey may be taken with longbow and arrows. The bag limit is one turkey either sex.

(3) In [Andrews,] Borden, [Cochran,] Crosby, Dawson, Ector, Fisher, [Gaines,] Garza, Haskell, [Hockley,] Jones, Kent, Knox, [Lubbock,] Lynn, Martin, Midland, Scurry, Stonewall, **and** [Terry,] Upton[, Ward, Winkler, and Yoakum] Counties, the general open season on turkey as set out in subsection (a) of this section and the archery only season as set out in subsection (b) of this section shall apply. The bag limit is one turkey, either sex.

(4) In Coke, Concho, Crockett, Glasscock, Howard, Irion, Mitchell, Nolan, Reagan, Runnels, Schleicher, Sterling, **Sutton**, Taylor, and Tom Green Counties, the general open season on turkey as set out in subsection (a) of this section and the archery only season as set out in subsection (b) of this section shall apply. The bag limit is two turkeys, either sex.

(5) In Bell, Coryell, and Williamson Counties, the general open season on turkey as set out in subsection (a) of this section and the archery only season as set out in subsection (b) of this section shall apply. The bag limit is one turkey, gobbler, or bearded hen.

(6) In Dimmit, Edwards, Gillespie, **Hays**, Kendall, and Real Counties, there is no archery only season on turkey.

(7) In Pecos and Terrell Counties, **the general open season on turkey as set out in subsection (a) of this section and the archery only season as set out in subsection**

tion (b) of this section shall apply. The bag limit is one turkey either sex. [there is a general open season on turkey beginning the last Saturday in November for nine consecutive days and the bag limit is one gobbler or bearded hen per season. There is an archery only season on turkey in Pecos and Terrell Counties beginning the first Saturday in October for 30 consecutive days, during which turkey gobblers or bearded hens may be taken with longbow and arrows and the bag limit is one turkey, gobbler, or bearded hen.]

(e) Spring turkey gobbler season.

(1) In Archer, *Armstrong, Atascosa, Bandera*, Baylor, Bee, Bell, Bexar, Blanco, *Borden*, Bosque, *Briscoe*, Brooks, Brown, Burnet, Callahan, *Carson, Childress*, Clay, Coke, Coleman, *Collingsworth*, Comal, Comanche, Concho, Coryell, *Cottle*, Crockett, *Crosby, Dallam, Dawson, Donley*, Eastland, *Ector, Edwards*, Erath, *Fisher, Floyd, Frio, Garza, Gillespie*, Glasscock, Goliad, *Gonzales, Gray*, Hamilton, *Hall, Hansford, Hardeman, Hartley, Haskell*, Hays, *Hemphill*, Hidalgo, Hood, Howard, *Hutchinson*, Irion, Jack, Jim Wells, *Jones, Karnes, Kendall, Kent, Kerr, Kimble*, Kinney, *Kleberg, Knox*, Lampasas, *LaSalle, Lipscomb, Live Oak*, Llano, *Lynn, Martin*, Mason, McCulloch, *Medina*, Menard, *Midland*, Mills, Mitchell, Montague, *Moore, Motley*, Nolan, *Ochiltree, Oldham*, Palo Pinto, Parker, *Pecos, Potter, Randall, Reagan, Real, Roberts*, Runnels, San Patricio, San Saba, Schleicher, *Scurry*, Shackelford, *Sherman*, Somervell, Stephens, Sterling, *Stonewall, Swisher*, Sutton, Taylor, *Terrell*, Throckmorton, Tom Green, Travis, *Upton*, Uvalde, Val Verde, *Victoria, Wheeler*, Wichita, Wilbarger, Willacy, Williamson, *Wilson*, Wise, Young, and Zavala Counties, there is a spring season on turkey gobblers beginning the Saturday nearest April 15 for 16 consecutive days during which one gobbler may be taken.

(2) In Houston, Jasper, Newton, Polk, Trinity, and Tyler Counties, there is a spring season on turkey gobblers beginning the Saturday nearest April 1 for 16 consecutive days during which one gobbler may be taken only in northeastern Houston, southwestern and northeastern Trinity, northern Polk, northern Tyler, northern Jasper, and northern Newton Counties, that area lying within boundaries beginning at the Neches River Bridge on State Highway 7 in Houston County, thence southeasterly along the Neches River to the Angelina-Jasper County line, thence easterly along the Angelina-Jasper, San Augustine-Jasper, Sabine-Jasper, Sabine-Newton County lines to the junction of the Sabine River, thence southerly along the Sabine River to the junction of State Highway 63, thence westerly along State Highway 63 to the junction of U.S. Highway 190 in Jasper, thence westerly along U.S. Highway 190 to the junction of FM Road 256 in Tyler County, thence northwesterly along FM Road 256 to Colmesneil, thence southeasterly along FM Road 256 to the junction with U.S. Highway 287, thence northwesterly along U.S. Highway 287 to the junction of U.S. Highway 59 in Corrigan, thence southerly along U.S. Highway 59 to the junction of FM Road 350, thence westerly and southerly along FM Road 350 to the junction of FM Road 3152, thence southwesterly along FM Road 3152 to the junction of U.S. Highway 190, thence westerly along U.S. Highway 190 to the junction of FM Road 356, thence northwesterly along FM Road 356 to the junction of State Highway 94 in Trinity, thence

northeasterly along State Highway 94 to the junction of U.S. Highway 287, thence southeasterly along U.S. Highway 287 to the junction of FM Road 2262, thence easterly along FM Road 2262 to the junction of FM Road 357, thence northerly along FM Road 357 through Apple Springs to the junction with State Highway 7 at Kennard, thence easterly along State Highway 7 to the Neches River Bridge in Houston County. [In Houston, Jasper, Polk, Trinity, and Tyler Counties, there is a spring season on turkey gobblers beginning the Saturday nearest April 1 for 16 consecutive days during which one gobbler may be taken only in northeastern Houston, northwestern Jasper, northern Polk, northern Trinity, and northern Tyler Counties, that area lying within the boundaries beginning at the Neches River bridge on State Highway 7 in Houston County, thence southeasterly along the Neches River to the Angelina-Jasper County line, thence easterly along the Angelina-Jasper County line to the junction of State Highway 63 in Jasper County, thence southeasterly along State Highway 63 to the junction with U.S. Highway 190, thence westwardly along U.S. Highway 190 to the junction of FM Road 256, thence northwesterly along FM Road 256 to Colmesneil, thence southeasterly along FM Road 256 to the junction with U.S. Highway 287, thence northwesterly along U.S. Highway 287 to the junction of U.S. Highway 59 at Corrigan, thence north along U.S. Highway 59 to the junction with FM Road 357, thence along FM Road 357 through Apple Springs to the junction with State Highway 7 at Kennard, thence easterly along State Highway 7 to the Neches River bridge in Houston County.]

(3) In Newton County, there is a spring season on turkey gobblers beginning the Saturday nearest April 1 for 16 consecutive days during which one gobbler may be taken only in that portion of Newton County bounded on the north by the Sabine County line, on the east by the Sabine River, on the south by State Highway 63, on the west by the intersection of State Highway 63 and the Ash-Kinzel county road, thence northerly on the Ash-Kinzel county road to the Weeks Chapel county road, thence northerly along the Weeks Chapel county road to the Mayflower county road, thence westerly along the Mayflower county road to the North Scrippin' Valley Road, thence north, northeasterly along the North Scrippin' Valley county road to the Sabine County line.]

(3) [(4)] In Anderson and Henderson Counties, there is a spring season on turkey gobblers beginning the Saturday nearest April 15 for 16 consecutive days during which one gobbler may be taken only within the area beginning at the Trinity River bridge on State Highway 31 and extending eastward along State Highway 31 to the junction with State Highway 19 in Athens, thence southward along State Highway 19 to the junction with U.S. Highway 79 in Palestine, thence westward along U.S. Highway 79 to the Trinity River bridge, thence northward along the Trinity River to the bridge on State Highway 31.

§65.47 (127.70.01.346). *Chachalacas*. In Cameron, Hidalgo, Starr, and Zapata Counties, there is an open season for chachalacas beginning December 1 through January 16. Elsewhere, there is no open season. Bag and possession limits are five per day and 10 in possession.

§65.48 (127.70.01.347). *Migratory Game Birds*. The regulations for hunting migratory game birds are prescribed in the

migratory game bird rules issued under the authority of Texas Parks and Wildlife Code, Chapter 64, Subchapter C.

§§65.49 and 65.50 (127.70.01.348 and .349). *Reserved for Future Expansion.*

§65.51 (127.70.01.350). *Fur-Bearing Animals: Means and Methods.* Fur-bearing animals may be hunted or killed in any number at any time for sport or if caught depredating on livestock, poultry, or personal property. However, fur-bearing animals or green pelts, except nutria, taken for these or any other purpose may not be retained or possessed by anyone at any time except during the open season as provided by Texas Parks and Wildlife Code, §§72.002 and 72.003. Additional restrictions (see §65.11 (127.70.01.310) of this title (relating to Open Seasons: General Rules)) on means and methods of taking fur-bearing animals are:

- (1) mink may not be hunted with dogs;
- (2) it is unlawful to shoot at, take, or attempt to take any fur-bearing animal from a boat on public waters of this state;
- (3) in Webb County, the provisions of Texas Parks and Wildlife Code, §62.005, shall prevail;
- (4) this section does not regulate fox in Jasper, Newton, and Tyler Counties;
- (5) in Harris, Houston, Liberty, Montgomery, Polk, Trinity, and Walker Counties, firearms may not be possessed when using artificial light in taking fur-bearers at night where deer are known to range;
- (6) in Hardin, Jasper, Jefferson, Newton, Orange, and Tyler Counties, high powered rifles, shotguns loaded with buckshot or slugs, or bow and arrow with broadhead hunting point, may not be used in taking fur-bearers when using artificial light at night where deer are known to range; and
- (7) river otters may not be taken with firearms.

§§65.54-65.59 (127.70.01.353-358). *Reserved for Future Expansion.*

§65.60 (127.70.01.359). *Alligators: Open Seasons and Bag Limits.* The season on alligators is closed in all regulatory counties.

§65.61 (127.70.01.360). *Freshwater Fish: General.*

- (a) Freshwater fish are regulated in all counties, except as provided in the Texas Parks and Wildlife Code, Title 7.
- (b) It is unlawful to take, or attempt to take, or possess fish in greater numbers, by other means, or at any time other than as permitted under this section; §65.62 (127.70.01.361) of this title (relating to Freshwater Fish: Bag, Possession, and Size Limits); §65.63 (127.70.01.362) of this title (relating to Freshwater Fish: Means and Methods); §65.64 (127.70.01.363) of this title (relating to Other Freshwater Aquatic Animal Life).
- (c) There is no closed season on fishing except that there may be a closed season on state or federal wildlife sanctuaries.

(1) The season on Hagerman National Wildlife Refuge is closed from October 1 through March 31.

(2) On Buffalo Lake National Wildlife Refuge in Randall County, the season is closed on all species of fish from November 1 to March 1, except that portion nearest the dam which is marked by signs and buoy lines.

(3) In Hood County, the fishing season is closed during the months of March and April on the Brazos River begin-

ning at the base of the DeCordova Dam and continuing downstream to the Brazos River Authority property line.

(4) In old Marlin City Lake in Falls County, fishing is prohibited.

§65.62 (127.70.01.361). *Freshwater Fish: Bag, Possession, and Size Limits.*

(a) Provisions relating to bass shall be as follows:

(1) The daily bag limit on largemouth, smallmouth, and spotted black bass is as provided by Texas Parks and Wildlife Code, §66.106(a)(1); and the possession limit is 20 in the aggregate.

(2) The possession limit shall not include fish processed and stored at the fisherman's permanent residence.

(3) Minimum size limits are as provided in Texas Parks and Wildlife Code, §66.105(a).

(4) In the Toledo Bend Reservoir, there is a daily bag limit of 15 largemouth, smallmouth, and spotted black bass in the aggregate, and there is no possession limit.

(5) In the Fayette County power cooling pond in Fayette County, there is a daily bag limit of three largemouth bass, a possession limit of six; and a minimum size limit of 16 inches.

(6) In the Nacogdoches City Lake in Nacogdoches County, there is a daily bag limit of three largemouth bass; a possession limit of six; and a minimum size limit of 16 inches.

(7) In *Bryson Lake in Jack County, Cottonwood Lake in Wise County, and Lake Fork Reservoir in Wood County*, there is a daily bag limit of five black bass (largemouth, smallmouth, and spotted); a possession limit of 10; and a minimum size limit of 14 inches.

(8) In Calaveras Lake in Bexar County, it is unlawful to retain bass (largemouth, smallmouth, and spotted) between 14 and 18 inches in length. Largemouth, smallmouth, and spotted bass less than 14 inches and greater than 18 inches long may be retained.

(9) In Lake Monticello in Titus County, it is unlawful to retain bass between 14 and 18 inches in length. Bass less than 14 inches and greater than 18 inches in length may be retained.

(b) Provisions relating to catfish shall be as follows:

(1) In all regulatory counties except as noted, it is unlawful to possess channel, blue, or flathead catfish less than nine inches in length taken from public waters. The daily bag limit on channel and blue catfish is 25 in the aggregate, and the possession limit is 50 in the aggregate. The daily bag limit on flathead catfish is five, and the possession limit is 10, except.

(2) In the Toledo Bend Reservoir, there are no possession limits on channel, blue, or flathead catfish, and no size limits on flathead catfish;

(3) In Lake Livingston, the daily bag limit on channel and blue catfish is 50 in the aggregate, and the holder of a commercial fishing license may not retain any channel or blue catfish less than 14 inches in length; and

(4) In Llano, Mason, and San Saba Counties, there are no size limits on blue, channel, or flathead catfish.

(c) The daily bag limit on walleye is 10, and the possession limit is 20.

(d) The daily bag limit on striped bass is five and the possession limit is 10, and in the Toledo Bend Reservoir, no more than two striped bass over 30 inches in length may be retained per day. There is no daily

bag or possession limit on hybrids of striped bass *except in Calaveras Lake in Bexar County, where the daily bag limit is five and the possession limit is 10.*

(e) The daily bag limit on rainbow trout, brown trout, kamloops trout, and coho salmon is as provided by Texas Parks and Wildlife Code, §66.106(a)(7), and the possession limit is 10 in the aggregate.

(f) The daily bag limit on northern pike is as provided by Texas Parks and Wildlife Code, §66.106(a)(6), and the possession limit is three.

(g) The daily bag limit on Nile perch is three, [and] the possession limit is six, *and the minimum size limit is 16 inches.*

(h) The daily bag limit on peacock bass is three, [and] the possession limit is six, *and the minimum size is 16 inches.*

(i) In Aransas, Atascosa, Bee, Bexar, Dimmit, Duval, Frio, Jim Wells, Karnes, Live Oak, Maverick, Medina, San Patricio, Uvalde, Wilson, Zapata, and Zavala Counties, the daily bag limit on minnows is 200, and there is no possession limit.

(j) There is no daily bag limit or possession limit on minnows taken from private minnow hatcheries.

(k) In the Nueces River where it forms the boundary between Nueces and San Patricio Counties, in Blanco Creek and the Sarco River where they form the boundary between Bee and Goliad Counties[, the following] bag and possession limits are *as provided by Texas Parks and Wildlife Code, §66.106.* [in effect.

[(1) It is unlawful to take more largemouth, smallmouth, or spotted black bass of any species in one day than 15, of which not more than 10 may be of greater length than 11 inches and none may be less than seven inches in length.

[(2) The daily bag limit on white bass and crappie is 25 each.

[(3) The daily bag limit on channel, blue, and flathead catfish is 25 in the aggregate, and the possession limit is 50 in the aggregate.]

(l) In the main stream of the Brazos River excluding cutoffs, oxbow lakes, and tributary streams where it forms the common boundary between Burleson and Robertson Counties, between Brazos and Burleson Counties, between Brazos and Washington Counties, and in Yegua Creek, where it forms a common boundary between Burleson and Washington Counties, bag and possession limits are as provided by Texas Parks and Wildlife Code, §66.106.

(m) There are no bag or possession limits on other species of fish.

(n) It is unlawful to remove game fish eggs from the public waters of this state.

(o) It is unlawful for any person while actually fishing on the public waters of this state to have in his immediate possession fish in excess of the daily bag limit as established by these sections.

§65.63 (127.70.01.362). *Freshwater Fish: Means and Methods.*

(a) In regulatory counties, only the following means and methods may be used to take fish. It is unlawful to take or attempt to take fish by any means and methods except as specifically allowed in this section.

(1) Pole and line, rod and reel, artificial and natural baits, hand line, jugline, or throwline and trotline; hooks on

throwlines and trotlines must be spaced not less than three horizontal feet apart.

(A) Not more than 100 hooks altogether which may be used in any combination of the following: pole and line, rod and reel, artificial and natural bait, jugline, throwline, and nonmetallic trotlines with not more than 50 hooks per line.

(B) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman, and the date it was set out.

(C) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(D) Any trotline set in the public waters of this state in violation of the provisions of this subchapter shall be removed from the waters thereof.

(E) No trotline may be placed or set in the vicinity of a public boat dock, or public bathing pier, or public bathing beach, or any public place commonly used as a swimming or bathing area.

(F) The use of trotlines, throwlines, and juglines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park or that portion of a stream bordering a state park

(G) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, not more than 20 hooks altogether, except on Lake Meredith where 40 hooks may be used, and which may be used in any combination of the following: pole and line, jugline, artificial lures or natural baits, rod and reel, throwline, and not more than one trotline.

(H) In the waters of the Fayette County power cooling pond, the use of trotlines is prohibited.

(I) In Live Oak County and in the waters of Lake Corpus Christi in San Patricio and Jim Wells Counties, no person may have more than two trotlines and no trotline may have more than 50 hooks.

(J) In Bryson Lake in Jack County, Cottonwood Lake in Wise County, and old Anson Lake in Jones County, trotlines, throwlines, and juglines are prohibited.

(2) A common fruit jar-type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from which taken.

(3) A spear gun and spear or bow and arrows for taking only rough fish except in Uvalde and Live Oak Counties and the waters of Lake Corpus Christi in San Patricio and Jim Wells Counties, but it is unlawful to possess fish other than rough fish when using a spear gun and spear or bow and arrow.

(4) A wire loop or gig for taking rough fish, except in the Nueces River from the parts of Lake Corpus Christi to which these sections apply, downstream to Nueces Bay and in Colorado County, but when using a wire loop or gig, one may not possess crappie, bass, or catfish.

(5) *Minnow seines may not be staked to impede the movement of fish. Minnow seines may be used for taking only minnows, shad, sunfish (bream or perch),*

or rough fish. Minnow seines not more than 40 feet in length and shad trawls may be used except as provided in this paragraph. [Minnow seines not more than 40 feet in length and shad trawls for taking only minnows, shad, sunfish (bream or perch), or rough fish. Minnow seines may not be staked to impede the movement of fish.]

(A) In Bedias Creek which forms a common boundary between Madison and Walker Counties, seines and nets are prohibited except minnow seines not more than 40 feet in length may be used for taking only minnows, sunfish (bream or perch), or rough fish.

(B) In Live Oak County and in the waters of Lake Corpus Christi in San Patricio and Jim Wells Counties, a minnow seine may not exceed 20 feet in length.

(C) In the waters of the Pease River, Brazos River, North Fork of the Red River, Salt Fork of the Red River, Big Wichita River, *Canadian River*, White River, and their tributaries, *within the counties of* [in] Archer, *Baylor, Childress, Cottle, Collingsworth, Gray, Fisher, Hall, Hardeman, Haskell, Hemphill, Jones, Kent, Knox, Motley, Roberts, Shackelford, Stonewall, Throckmorton* [and] *Wheeler, Wichita, Wilbarger, and Young* Counties, a minnow seine not longer than 60 feet may be used.

(6) Any net set in public waters of this state in violation of the provisions of this subchapter shall be removed from the waters thereof. Any net used in public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman and the date it was set out. Trammel nets, gill nets, and drag seines may not be used, except as provided as follows:

(A) In Brazos, Dimmit, Falls, Freestone (except Lake Fairfield), Grimes, Madison (except in the Trinity River where it forms the boundary with Houston County), Milam, Robertson (except Lake Limestone), and Zavala Counties, a nonmetallic net having mesh not less than three inches square for taking only rough fish (fish not designated rough fish taken in such a net must be immediately released into the waters where taken). It is unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(B) In the Neches River in Anderson County, three-inch square mesh nets may be used to take all fish from February through May of each year.

(C) In Henderson County, a three-inch square mesh net is permitted to take rough fish only, except that in the waters of Cedar Creek Reservoir, Flat Creek, and in Lake Palestine in Henderson County, such nets may not be used.

(D) In the main stream of the Brazos River, excluding cutoffs, oxbow lakes, and tributary streams, where it forms the common boundary between Burleson and Robertson Counties, between Brazos and Burleson Counties, between Brazos and Washington Counties, and in Yegua Creek where it forms a common boundary between Burleson and Washington Counties, the means and methods of taking fish are as provided by Texas Parks and Wildlife Code, §66.101.

(E) In Gillespie County only, except during March, April, and May, a nonmetallic net having mesh not less than two inches square for taking rough fish only (fish not designated rough fish taken in such a net must be immediately released into the water where taken). It is unlawful to have in possession or aboard a boat or in a vehicle, fish other than

rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(F) In Houston (except *in Houston County Lake and* in the Trinity River where it forms the boundary with Madison County), Jefferson, [Liberty,] Nacogdoches (except Nacogdoches City Lake), Newton, Orange, Polk (*except in the Trinity River*), San Augustine, [San Jacinto,] Trinity, and Tyler Counties, hoop nets, trammel nets, and gill nets of nonmetallic construction having a mesh size not less than three inches square may be used for taking only rough fish, as defined, except that it is unlawful to use nets for taking fish from the Neches River from the Jasper-Angelina County line to the bridge over the Neches River between Bridge City and Groves on State Highway 87, and from the waters of the Angelina River in Jasper County below the Sam Rayburn Dam, and in Sam Rayburn Reservoir, and in Sam Rayburn Reservoir below the Texas Eastern Transmission Company pipeline, and in Lake Livingston and in Toledo Bend Reservoir. It shall be unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(G) In Lee County, set or drag nets or seines, the meshes of which are not less than three inches square, may be used in Yegua Creek where it forms the boundary with Burleson County to take all fish, and set or drag nets with three-inch square mesh, except hoop nets, may be used to take rough fish in the remainder of the county.

(H) In *Coletto Creek in Victoria County and in the San Antonio River between Goliad and Victoria Counties* [Calhoun (except in the Guadalupe River), Colorado, Fayette (except in the Fayette County power cooling pond), Goliad, Jackson, and Victoria (except in the Guadalupe River) Counties,] set or drag nets or seines, the meshes of which are not less than three inches square [other than hoop and barrel nets,] may be used for taking [only rough] fish, and all other fish taken in such nets must be immediately released into the water from which taken.

(I) In *the San Bernard River in Colorado* County, set or drag net or seines or hoop nets, the meshes of which are not less than three inches square, may be used to take rough fish.

(J) In Bowie and Harrison Counties, hoop nets, trammel nets, and gill nets of nonmetallic construction with meshes not less than three inches square may be used for taking only rough fish, as defined, and catfish, except in Lake Tawakoni in Hunt, Rains, and Van Zandt Counties; Lake Palestine; and the Sabine River in Harrison County, they are unlawful.

(K) Use of hoop nets, trammel nets, and gill nets is prohibited in B. A. Steinhagen Lake in Jasper and Tyler Counties.

(L) In Lake Limestone, the use of hoop nets, trammel nets, and gill nets is prohibited.

(b) Snagging or jerking fish (a method of taking fish by means of one or more hooks attached to a line and periodically jerking the line) is specifically defined as an illegal method for taking fish, artificial lures not included.

(c) It is unlawful to use a hand-operated device under water designed to snag fish, commonly called "nodding," poles, or gaffs other than the ones permitted under Texas Parks and Wildlife Code, §66.101, §66.102, and §66.107.

§65.64 (127.70.01.363). Other Freshwater Aquatic Animal Life.

(a) There is no closed season or bag limit on other freshwater aquatic animal life.

(b) Means and methods are not restricted, except as limited by statute.

§65.65-65.70 (127.70.01.364-369). Reserved for Future Expansion.

§65.71 (127.70.01.370). Saltwater Fish: General. The taking or attempting to take or possession of saltwater fish species in greater number, by other means, or at times other than as permitted under this section; §65.72 (127.70.01.371) of this title (relating to Saltwater Fish: Open Seasons, Bag, Possession, and Size Limits); §65.73 (127.70.01.372) of this title (relating to Saltwater Fish: Means and Methods); §65.74 (127.70.01.373) of this title (relating to Saltwater Fish: Menhaden—Gulf of Mexico), is unlawful.

§65.72 (127.70.01.371). Saltwater Fish: Open Seasons, Bag, Possession, and Size Limits. There is no closed season, bag, possession, or size limit on saltwater fish, except as provided in the Texas Parks and Wildlife Code, Chapter 66, Subchapter C, and Title 7, and as excepted in the following:

(1) it is unlawful to possess flounder less than 12 inches in length in Kenedy and Willacy Counties;

(2) it is unlawful to take spotted seatrout (speckled trout) less than 12 inches in length;

(3) it is unlawful for anyone other than the holder of a commercial fishing license to catch and retain more than 20 spotted seatrout in one day or to possess more than 40 spotted seatrout;

(4) it is unlawful for the holder of a commercial red drum license to use a spear gun and spear, bow and arrow, or gig to take red drum; and

(5) it is unlawful for the captain, or crew, or both of a commercial fishing vessel to possess or land billfish, except swordfish.

§65.73 (127.70.01.372). Saltwater Fish: Means and Methods.

(a) It is unlawful to take or attempt to take fish by any means and methods other than specifically allowed in this section

(b) In the regulatory counties, only the following means and methods may be used for taking fish:

(1) Devices.

(A) Pole and line, rod and reel, artificial and natural baits, throwline, and trotline (including rubber band lines and sail lines), cast nets and dip nets, 20-foot minnow seines for taking bait, [perch trap not exceeding 18 cubic feet for taking bait.] spear gun and spear, bow and arrow, and gig, except it is unlawful to use a spear gun and spear, bow and arrow, or gig to take red drum and spotted seatrout.

(B) Purse nets for menhaden as provided in §65.74 (127.70.01.373) of this title (relating to Saltwater Fish: Menhaden—Gulf of Mexico).

(C) Fish trawls with a webbing size of not less than four inches stretched mesh are permitted only in gulf waters of Aransas, Brazoria, Jefferson, Matagorda, and Willacy Counties.

(D) Fish taken incidental to legal shrimping operations may be retained, except as provided under the Texas Parks and Wildlife Code, §77.100. Trammel nets, gill nets, and drag seines may be used in or on the coastal waters

where presently legal, except between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week.

(E) Trammel nets and drag seines only may be used to take fish as provided in this paragraph; however, the use of trammel nets, gill nets, and drag seines are prohibited in the waters of Port Bay, St. Charles Bay, Copano Bay, and Redfish Bay; all remaining saltwaters of Aransas County are closed to the use of gill nets. In the waters of Sabine Pass leading from Sabine Lake to the Gulf of Mexico, or in the waters within one mile of Sabine Pass, or in or on any of the waters of any of the lakes, bays, streams, bayous, or canals of Jefferson and Orange Counties; and in the waters of Carancah Bay; and Swan Lake in Jackson County, and in the inside saltwater lakes, bays, streams, bayous, or canals of Brazoria County, it is unlawful to use or possess any net, except a shrimp trawl, cast net, or 20-foot minnow seine for taking bait; except that seines not more than 20 feet in length may be used for taking bait in these waters.

(F) The use of trawls is prohibited in all the inside waters of Jefferson County south of the Intracoastal Waterway and west of the Port Arthur Canal, except that cast nets and 20-foot minnow seines may be used for catching bait, in quantities not to exceed two quarts per person or four quarts per boat.

(G) *The use of airboats or jet-driven devices to pursue and harass or harrass are specifically prohibited as a means for the taking of redfish and trout.*

(2) Nets and seines.

(A) Nets and seines except cast nets and dip nets with mesh constructed of four or less monofilaments twisted or bound together are prohibited. Monofilament is defined as a single [untwisted] synthetic filament.

(B) Drag seines and trammel nets shall not exceed 1,800 feet in length in any one operation and may not measure less than 1-1/2-inch square mesh, and the battling and pocket shall measure not less than one inch square mesh.

(C) A trammel net is defined as a net consisting of three walls of webbing with a maximum mesh size of eight-inch square mesh for the two outer walls, and a minimum mesh size of 1-1/2-inch square mesh for the center wall.

(D) It is unlawful to use a seine or net, except dip net, cast net, or 20-foot minnow seine in the saltwaters of Nueces County; except in that portion of Corpus Christi Bay more than 1/2 mile from the main shoreline beginning at the easternmost point of the mainland on the Corpus Christi Naval Air Station and proceeding along the mainland shoreline past the City of Corpus Christi, including the causeway on State Highway 181, and extending eastward past the City of Portland to Ingleside Point, trammel nets, drag seines, and gill nets with not less than 1-1/2-inch square mesh may be used except during the months of May, June, July, and August.

(E) No nets may be set in a navigation channel in the salt waters of Nueces County.

(F) For the purpose of these sections, the boundary between Corpus Christi Bay and Redfish Bay is a line extending along the side of Dagger Island and Ransom Island.

(G) Trammel nets and gill nets shall not exceed 1,800 feet in length in any one operation.

(H) In San Antonio Bay, north of the Intracoastal Waterway, three-inch stretched mesh drag seines, trammel nets, and gill nets may be used to take fish.

(I) It is unlawful for any person operating a drag seine in gulf waters to fail to return all aquatic life not utilized to the waters from which taken.

(J) It is unlawful to use a gill net or trammel net in or on the waters of the Gulf of Mexico within the jurisdiction of this state.

(3) Trotlines.

(A) Trotline (except rubber band lines and sail lines) end stakes shall be marked with burlap or flagging.

(B) Metallic stakes are prohibited.

(C) Panels of top water trotlines shall be marked by having attached to the line midway between all stakes plastic or cloth measuring not less than one inch wide with a streamer not less than six inches long clearly visible and above the water.

(D) No trotline (except sail lines) shall exceed 600 feet in length.

(E) Fish taken by means of a sail line may not be sold.

(F) No trotline (including rubber band lines and sail lines) or portions thereof shall be placed closer than 50 feet from any other trotline, or set within 200 feet of the edge of the Intracoastal Waterway or its tributary channels.

(G) No trotline or trotline components, including lines and hooks but excluding poles, may be left in or on coastal waters between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week, except that attended sail lines are excluded from the restrictions imposed by this paragraph.

(H) In Baffin Bay, Alazan Bay, and their tributaries, no more than 10 trotlines with mainlines and hooks on the bottom, not exceeding 100 hooks per line [or 600 feet of line,] may be used, operated, or fished by one individual, except between the hours of 1 p.m. on Friday through 1 p.m. on Sunday].

(I) In Baffin Bay, Alazan Bay, and their tributaries only snaglines may be used each day of the week from December 1 through May 31.

(4) Laguna Madre. In the waters of the Laguna Madre in Cameron County and the inside waters of Willacy County (as defined in Texas Parks and Wildlife Code, Chapter 77), it is unlawful to use a net or seine except a dip net, cast net, minnow seine less than 20 feet in length for catching bait, or shrimp net or trawl as provided by Texas Parks and Wildlife Code, Chapter 77. Drumfish may be taken between November 1 and March 31 with nets, but only when under contract with the department as set forth in contract regulations provided by law.

(5) Aransas Bay. The waters of Aransas Bay described in this subparagraph, closed to netting by law on the first day of June 1963, as well as the waters within one mile of any inlet or pass, shall remain closed. In all waters of Aransas Bay in Aransas County lying south of a line running from a stake or marker located on the shore of *San Jose* [St. Joseph] Island one mile north of the bayside entrance to the pass, commonly known as North Pass, to the southern end of Mud Island, thence to the north side of the entrance to Corpus Christi Bayou; in all waters of Aransas County lying between Harbor Island and *San Jose* [St. Joseph] Island; in all waters of Aransas County lying between Harbor Island and Mustang Island; and in connecting inlets and bayous, lying south and southwest of a line starting at the juncture of the railroad dumps on the mainland, running east along the center of said dumps to its eastern extremity, thence north-east to the north side of the eastern entrance to Corpus

Christi Bayou, thence southeast to the northern extremity of Harbor Island to a stake or marker, and north and northeast of a line running directly east and west from the mainland to Harbor Island across the southern extremity of Ransom Point, it is unlawful to use a net or seine more than 20 feet in length.

(6) Net-free zone. Rules providing a net-free zone in Aransas County are prescribed in Texas Parks and Wildlife Code, §104.012.

(7) Nets in passes. It is unlawful to use a net or seine except minnow seines not more than 20 feet in length, and cast nets in or within one mile of any pass connecting the bays or tidal waters to the Gulf of Mexico.

(8) Net tags.

(A) Any net used in the public saltwaters by sport fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman, and the date it was set out.

(B) Any net set in the public waters without being properly identified shall be an illegal net and shall be removed from the waters by officials of the department and destroyed.

(9) Baits.

(A) It is unlawful to use any bait other than natural baits on trotlines, except that artificial baits may be used on sail lines.

(B) Natural bait as used on trotlines (except sail lines) in saltwater is defined as a whole or cut up portion of a fish, shrimp, squid, or crab, or a whole or cut up portion of plant material in its natural state, provided that none of the above may be altered beyond cutting into portions.

(C) Other substances may be used as bait upon approval by the executive director.

(10) *Perch traps.*

(A) *Perch traps may be used for taking only bait.*

(B) *Perch traps may not exceed 18 cubic feet.*

(C) *Perch traps must be marked with a floating visible buoy not less than 10 inches above the water and 10 inches in width or with plastic bottles not less than one gallon in size. The buoy shall be imprinted with the owner's name, address, and license number.*

§65.74 (127.70.013.3). *Saltwater Fish: Menhaden—Gulf of Mexico.* Menhaden fish may be taken from the waters of the Gulf of Mexico within the gulfward boundary lines of Aransas, Brazoria, Calhoun, Cameron, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, and Willacy Counties from the coastline of the gulf to the continental shelf compiled, platted, fixed, and located by the commissioners of the General Land Office pursuant to Chapter 287, Acts, 50th Legislature, 1947, and filed and recorded in the office of the county clerk of said county, from the third Monday in April through the Friday following the second Tuesday in October of each year, through the use of nets and purse seines which, not including the bag, shall not be less than 1-1/2-inch stretched mesh; however, no such nets and purse seines may be used in any bay, river, pass, or tributary thereto, nor within one mile of any jetty or pass, nor within 1/2 mile offshore in the Gulf of Mexico.

§65.75 (127.70.01374). *Saltwater Fish: Commercial Harvest Reporting Requirements.*

(a) Each individual sales transaction of all saltwater fish must be recorded in triplicate at the time of the initial

purchase only on a form prescribed and distributed by the department. The original copy of all Individual Sales Transaction forms from the previous month must be retained at the place of business until filed with the department no later than the 10th day of the following month, or surrendered on request to the authorized department personnel prior to that date. A separate copy of each completed form must be retained by both the buyer and the seller for a period of 72 hours after the initial sale.

(b) The Individual Sales Transaction Form shall include:

- (1) the date of the sale;
- (2) the dealer's code number or name of purchaser;
- (3) the fisherman's name;
- (4) the red drum license number of the fisherman (if red drum are sold);
- (5) the commercial license number of the fisherman;
- (6) the equipment used;
- (7) the pounds of each species of fish sold; and
- (8) the bay system or area of the Gulf of Mexico where captured.

(c) The responsibility for obtaining and completing the Individual Sales Transaction Form shall be on the holders of wholesale or retail truck and fish dealer's licenses who initially purchase the fish from a commercial fisherman, unless the fish are sold by a commercial fisherman directly to a final consumer, in which case the form shall be obtained and completed by the commercial fisherman.

(d) Completion of the Individual Sales Transaction Form is in addition to other reporting requirements for fish, oysters, crabs, or shrimp as prescribed by law.

(e) Penalties for conviction of violating this section are provided in Texas Parks and Wildlife Code, §61.902.

§65.76 (127.70.01.375). Shellfish (Crabs, Oysters, and Shrimp). It is unlawful to take or possess shellfish in greater numbers or at any other time than as permitted by this section; §65.77 (127.70.01.376) of this title (relating to Shrimp); §65.78 (127.70.01.377) of this title (relating to Crabs); §65.79 (127.70.01.378) of this title (relating to Oysters).

§65.77 (127.70.01.376) Shrimp The licensing provisions, the taking, possession, handling, loading, unloading, buying, selling, and processing of shrimp shall be governed by and subject to the penalties prescribed in Texas Parks and Wildlife Code, Chapter 77, except as follows:

(1) In the coastal or other waters of Jackson County, it is unlawful for a person taking, or catching, or attempting to catch shrimp, to have in possession or on board a boat or vessel more than two quarts of shrimp per person, or more than four quarts per boat to be used for bait purposes only; provided, however, a person may take or catch shrimp for personal use in an amount not to exceed 100 pounds of shrimp in their natural state with heads attached, per day, but only during the open season of the inside waters of the county from August 15 to December 15. It is unlawful for a person to buy, sell, offer for sale, or handle in any way for profit, shrimp so acquired. The restrictions of this paragraph do not apply to persons or boats in the Jackson County waters of Carancahua Bay southeast of State Highway 35 as it crosses Carancahua Bay (from Chapter 508, Acts, 59th Legislature, Regular Session, 1965, Section 15A).

(2) Brazoria County.

(A) In Brazoria County, the waters of West Bay lying south and southeast of the Intracoastal waterway are a

major bay where the means, manners, methods, times, places, and quantity for taking shrimp are the same as those for major bays in Texas Parks and Wildlife Code, Chapter 77.

(B) In Brazoria County, the waters of those portions of Chocolate Bay, West Bay, and the Old Brazos River lying north of the Intracoastal Waterway are bait bays where the means, manners, methods, times, places, and quantity for taking shrimp are the same as those for bait bays in Texas Parks and Wildlife Code, Chapter 77.

(C) In the remaining inside waters (as defined in Parks and Wildlife, §77.001), of Brazoria County, bait shrimp may be taken during daylight hours only in an amount not to exceed two quarts per person per day. Only cast nets, dip nets, or 20 foot minnow seines that are manually operated on foot only without the use of any mechanical means or devices may be used.

(D) In the outside waters (as defined in Texas Parks and Wildlife Code, §77.001), of Brazoria County, the means, manners, methods, times, places, and quantity for taking shrimp are the same as those for outside waters in Texas Parks and Wildlife Code, Chapter 77.

§65.78 (127.70.01.377). Crabs.

(a) Crabs may be taken in any numbers at any time by dip net, set line, hand line, gig, trotline, and crab traps.

(b) Crab trawls with a webbing size of not less than five inches stretched mesh are permitted in coastal waters as defined in Texas Parks and Wildlife Code, §77.001.

(c) Crabs taken incidental to legal shrimping or fishing operations may be retained.

(d) All crab traps shall be marked with a floating visible buoy not less than 10 inches above the water and 10 inches in width, or with plastic bottles of not less than one gallon size.

(e) It is unlawful to retain sponge crabs, and in Galveston County, no person may buy or sell a female crab that has its abdominal apron detached.

(f) Crab size limits shall be as follows:

(1) No hard shell blue crabs less than five inches, soft shell blue crabs less than 4-1/2 inches, or peeler blue crabs less than four inches in carapace width, measured from tip of spine to tip of spine, may be possessed, except for bait. Crabs shall be separated by the catcher at the time taken and all crabs less than the minimum size shall be returned to the waters from which taken or placed in a separate container for possession of bait only. A tolerance of not more than 5.0% by number of undersized crabs may be possessed for purposes other than bait.

(2) In Galveston County, no person may possess or may catch and retain a blue crab smaller than five inches across the shell from tip to tip except during the period from March 1 to April 30, when a person may catch and retain blue crabs of any size for use as bait if bait blue crabs are kept alive in a container separate from nonbait blue crabs. The holder of a commercial fishing license may catch and retain a number of blue crabs smaller than five inches that equals or is less than 5.0% of the total number of blue crabs possessed by the licensee, excluding bait blue crabs.

(g) No crab traps may be placed within 200 feet of a marked navigable channel in Aransas County.

(h) No crab fisherman may fish more than 300 crab traps.

(i) Crab traps shall be marked with the owner's name, address, and license number imprinted on material as durable as the trap.

§65.79 (127.70.01.378) Oysters. Oysters shall be taken, possessed, and handled in accordance with the sanitation and harvest provisions of Texas Parks and Wildlife Code, Chapter 76.

§65.80 (127.70.01.379) Other Saltwater Life and Marine Animals.

(a) It is unlawful for a person to knowingly take, kill, or disturb sea turtles or sea turtle eggs in or from the waters of the State of Texas.

(b) There is no open season on porpoises, dolphins (mammals), and whales.

(c) There are no restrictions on other saltwater life and marine animals, except as provided in Texas Parks and Wildlife Code, Chapter 66.

§65.81 (127.70.01.380) Special Coastal Laws.

(a) Net defined. When net is mentioned in this section, such as a trammel, strike, gill, hoop, pound, purse, or other kind of net, the standard net of such variety or kind or the usual or ordinary kind of such net as manufactured and sold as in or to the trade is meant.

(b) Calhoun County: fishing gear. In Calhoun County, it is illegal to use a seine or net, except cast net, dip net, or 20-foot minnow seine for taking bait in the following waters: the waters of Karankawa (Caranchua) Creek, Karankawa (Caranchua) Bay and the lakes and coves opening thereonto, Karankawa (Caranchua) Pass or within a radius of 1,000 yards from the mouth of said pass in the waters of Matagorda Bay; Kellers Creek and that part of Kellers Bay within a radius of 1,000 yards from the southwest corner of the Olivia State Highway roadside park; all of Coloma Creek and Powder Horn Lake, Powder Horn Bayou—the same being the pass between Powder Horn Lake and Matagorda Bay or within a radius of 1,000 yards from the mouth of said pass in the waters of Matagorda Bay; Chocolate Creek leading into Chocolate Bay or within a radius of 100 yards from the mouth of Chocolate Creek in the waters of Chocolate Bay; and all that part of Lavaca Bay within the distance of 1,000 yards on each side of the Lavaca Bay Causeway.

(c) Calhoun County: fishing.

(1) It is unlawful for a person to take or catch fish from the waters of Espiritu Santo Bay, including the Intracoastal Waterway and all adjoining bays, bayous, lagoons, lakes, inlets, and harbors between the jetties of Port O'Conner and the Army Channel Pass, or in those portions of San Antonio Bay south or southeast of the Intracoastal Waterway, including all bays, bayous, lagoons, lakes, and inlets located between the Intracoastal Waterway and the gulfward shoreline of Matagorda Island, or within one mile of any pass leading from the waters described in this paragraph to any other bay or into the Gulf, located in Calhoun County, or in those portions of Matagorda Bay, Pass Cavallo, and the Gulf of Mexico in Calhoun County lying south or southeast of the Intracoastal Waterway, including all bays, bayous, lagoons, lakes, canals, and inlets opening thereto, seaward to a line from the Matagorda lighthouse on Matagorda Island to the gulfward end of the West Port O'Connor jetty on Matagorda Peninsula, by other means than pole and line, rod and reel, artificial and natural baits, throwline and trotline (including rubber band and sail lines), cast nets and dip nets, 20-foot minnow seine for taking bait, perch trap not exceeding 18 cubic feet for taking bait, spear gun and spear, bow and arrow, and gig.

(2) *In the waters of Hynes Bay in Calhoun County north and west of a line connecting McDowell Point and Grassy Point, gill nets, trammel nets, and drag seines of not less than 1-1/2 inch bar mesh may be used except between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week.* [Any person drawing a seine or setting a net for the purpose of taking fish in the waters of Espiritu Santo Bay, including the Intracoastal Waterway and all adjoining bays, bayous, lagoons, lakes, inlets, and harbors between the jetties of Port O'Conner and the Army Channel Pass, or in those portions of San Antonio Bay south or southeast of the Intracoastal Waterway, or any of the waters between the Intracoastal Waterway and the gulfward shoreline of Matagorda Island, or within one mile of any pass located in Calhoun County, or in those portions of Matagorda Bay, Pass Cavallo, and the Gulf of Mexico in Calhoun County lying south or southeast of the Intracoastal Waterway, including all bays, bayous, lagoons, lakes, canals, and inlets opening thereto, seaward to a line from the Matagorda Lighthouse on Matagorda Island to the gulfward end of the West Port O'Connor jetty on Matagorda Peninsula, or any person catching or taking fish in such waters by any other means than by hook and line, rod and reel, or trotline, or gig, or by the use of cast net or minnow seine not exceeding 20 feet in length shall be deemed guilty of a misdemeanor. However, in the waters of Hynes Bay in Calhoun County lying north and west of a line connecting McDowell Point and Grassy Point, gill nets, trammel nets, and drag seines of not less than 1-1/2-inch bar mesh may be used except between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week.]

(3) It is unlawful for a person to take or catch fish from the waters of Lavaca Bay, Keller Bay, Cox Bay, Banal Lake, Mesquite Creek, Placedo Creek, Garcitas Creek, Red Fish Lakes, and Oyster Bayou in Calhoun County, by any other means than hook and line, rod and reel, or trotline, or gig, or by the use of cast net or minnow seine not exceeding 20 feet in length, used in catching bait.

[(4) Any person drawing a seine or setting a net in the waters of Lavaca Bay, Keller Bay, Cox Bay, Banal Lake, Mesquite Creek, Placedo Creek, Garcitas Creek, Red Fish Lakes, and Oyster Bayou in Calhoun County, or a person catching or taking fish by any other means than hook and line, rod and reel, or trotline, or gig, or cast net and minnow seine not exceeding 20 feet in length, shall be deemed guilty of a misdemeanor.]

(d) Cameron County: fishing. It is unlawful for a person to have in possession in or on the waters, islands, spoil areas, or mud flats of the Laguna Madre lying within Cameron County, a seine, net, trap, or other device, for the purpose of catching fish, other than the ordinary pole and line, rod and reel, artificial and natural baits, throwline and trotline (including rubber band and sail lines), cast nets and dip nets, 20 foot minnow seine for taking bait, perch trap not exceeding 18 cubic feet for taking bait, spear gun and spear, bow and arrow, and gig.

(e) Aransas and Nueces Counties, seines. It is unlawful for a person to place, set, use, or have in possession, or to have on board a boat, or in a vehicle, a seine, net, or trawl, in the waters of Corpus Christi Bay, and Laguna Madre, and connecting inlets or bayous, lying between a line on the north running east from a stake or marker on the shore on the northeasterly point of Flour Bluff to a stake or marker on Mustang Island, one mile north of Corpus Christi

Pass, and the Nueces-Kleberg County line on the south; or in Callo Del Oso and connecting inlets and bayous; or in Oso Creek; or in Corpus Christi Pass; or in Aransas Pass; or within one mile of the passes mentioned in this subsection, in all waters of Aransas Bay lying south of a line running from a stake or a marker located on the shore of *San Jose* [St. Joseph] Island one mile north of the bayside entrance to the pass, commonly known as North Pass, to the southern end of Mud Island, thence to the north side of the entrance to Corpus Christi Bayou, in all waters lying between Harbor Island and *San Jose* [St. Joseph] Island; in all waters lying between Harbor Island and Mustang Island; in connecting inlets and bayous, lying south and southwest of a line starting at the juncture of the railroad dumps on the mainland, running east along the center of said dumps to its eastern extremity; thence northeast to the north side of the eastern entrance to Corpus Christi Bayou; thence southeast to the northern extremity of Harbor Island to a stake or marker, and north and northeast of a line running directly east and west from the mainland to Harbor Island across the southern extremity of Ransom Point, or in a pass or channel leading from one body of water to another in the salt waters of Nueces County.

(f) Nueces County. Gulf—nets and seines. It is unlawful for a person to place, set, use, or drag a net or seine, other than a cast net or minnow seine of not more than 20 feet in length for catching bait, in or on the waters of the Gulf of Mexico within one mile of the Horace Caldwell Pier located on Mustang Island, and the Bob Hall Pier located on Padre Island, both in Nueces County, and within 1,000 feet of the shoreline of Padre Island in Nueces County.

(g) Copano and Mission Bays—seines. It is unlawful for a person, firm, or corporation, or their agent or agents, to use a seine, strike net, gill net, or trammel net in the waters of Copano Bay, Mission Bay, and connecting waters west of State Highway 35 in Aransas, Refugio, and San Patricio Counties. It is lawful to fish with a pole and line, rod and reel, trotline, or to seine for bait with a minnow seine not over 20 feet long.

(h) Corpus Christi Bay and Redfish Bay—seines.

(1) For the purposes of this subsection, the shoreline is the water's edge at mean tide.

(2) It is unlawful for a person to place, set, use, drag, or have in possession a seine, net, or other device for catching fish, other than the ordinary pole and line, casting rod and reel, artificial bait, trotline, set line, gig, cast net, or minnow seine of not more than 20 feet in length, for catching bait, in or on the waters of Corpus Christi Bay within 1/2 mile of the mainland shoreline beginning at a pyramid marker on the shoreline off Mustang Island one mile north of the Corpus Christi Water Exchange Pass and proceeding on a line west to Marker 9 on the Intracoastal Waterway, and to 1/2 mile off the easternmost point of the mainland on the Corpus Christi Naval Air Station and proceeding within 1/2 mile of the mainland and shoreline past the City of Corpus Christi, including the causeway on State Highway 181, and extending eastward past the City of Portland to 1/2 mile east of Ingle-side Point, or in or upon the waters of Redfish Bay in Nueces County.

(i) Kleberg and Kenedy Counties—seines and nets. It is unlawful for a person to place, set, use, drag, or have in possession a seine, net, or other device for catching fish and shrimp other than the ordinary pole and line, casting rod and reel, artificial bait, trotline, set line or cast net, or minnow seine of not more than 20 feet in length, for catching fish in

or on the waters lying between Padre Island and the mainland in Kleberg and Kenedy Counties, including all back bays and inlets and that back of the Laguna Madre lying in Kleberg and Kenedy Counties.

(j) Willacy County: seines and nets.

(1) It is unlawful for a person to have in possession in or within one-half mile of any of the tidal waters of Willacy County west of Padre Island a seine, net, trawl, trap, or other device, for the purpose of catching fish or shrimp, other than the ordinary pole and line, casting rod and reel, artificial bait, trotline, set line, or gig.

(2) The department may issue permits under rules and regulations promulgated by the department for the taking of sheephead and black drum fish during the months of December, January, February, and March in that portion of the Laguna Madre lying in Willacy County.

(k) Galveston County: seines and nets.

(1) Strike nets, gill nets, and trammel nets may be used for the purpose of taking fish only in Galveston Bay and only during that period beginning on August 15 of one year and extending through May 15 of the following year.

(2) Strike nets and gill nets shall not measure less than 1-1/2-inch square mesh.

(3) No person may use a strike net, gill net, trammel net, drag seine, or shrimp trawl for the purpose of taking fish in any of the following waters of Galveston County at any time:

(A) Swan Lake;

(B) Moses Lake;

(C) Dollar Bay;

(D) Clear Lake;

(E) Dickinson Bayou or Bay west of a line from Miller's Point to April Fool Point;

(F) water lying northwest of a line from Kemah in Galveston County to Mesquite Knoll in Chambers County;

(G) water of East Bay lying north and east of a line from the extreme western point of Smith's Point in Chambers County to the west bank of Siever's Cut where East Bay intersects with the north bank of the Intracoastal Canal on Bolivar Peninsula in Galveston County at Siever's Fish Camp, which cut is between Elm Grove Point and Baffle Point, both points being on the north shore of Bolivar Peninsula;

(H) water of West Bay lying south and west of the Galveston Causeway (Interstate Highway 45), including all adjacent bays, streams, bayous, and canals.

(4) No person may use a strike net, gill net, trammel net, or drag seine for the purpose of taking fish at any time in the gulf waters of Galveston County

(A) west and south of a line from Magnolia Road to the gulf end of the North Jetty; and

(B) west and north of a line from the 10th Street Rock Groin to the gulf end of the South Jetty.

(l) Matagorda County: special closed areas. No person may use a strike net, gill net, trammel net, or drag seine for the purpose of taking fish at any time:

(1) in the waters of Matagorda Bay and Pass Cavallo, including all adjoining bays, bayous, lagoons, lakes, canals, and inlets, or in the Gulf of Mexico, south and southwest of a line extending from the Matagorda Club Airfield breakwater on the bayside of Matagorda Peninsula to the intersection of the Intracoastal Waterway and the Matagorda Ship Channel, thence southwest along the Intracoastal Waterway to the western boundary of Matagorda County, seaward to a line ex-

tending from the Matagorda Lighthouse on Matagorda Island to the gulfward end of the West Port O'Connor Jetty on Matagorda Peninsula;

(2) in the waters of the Gulf of Mexico west of a line from a monument on Matagorda Peninsula one mile northwest of the shoreline end of the East Port O'Connor Jetty to the gulf end of the East Port O'Connor Jetty,

(3) in all waters of East Matagorda Bay and Brown Cedar Cut east of a line from a monument on Matagorda Peninsula one mile southwest of Brown Cedar Cut due north to a monument on the mainland; and

(4) in the waters of Brown Cedar Cut and all gulf waters one mile seaward of a line from a monument one mile southwest and a monument one mile northeast of Brown Cedar Cut on Matagorda Peninsula.

§§65.82-65.90 (127.70.01.381-389) *Reserved for Future Expansion*

§65.91 (127.70.01.390) *Penalty for Violation* The penalties for violation of this subchapter are prescribed by Texas Parks and Wildlife Code, §61.901 and §61.902, except shrimp violations which are prescribed by the Texas Parks and Wildlife Code, §77.020.

Issued in Austin, Texas, on March 13, 1981.

Doc No 811666 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife Department

Proposed Date of Adoption April 20, 1981
For further information, please call (512) 475-4954.

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The Texas Parks and Wildlife Commission proposes to repeal §65.25 and §65.27 (127.70.01.324 and .326). Section 65.25 (127.70.01.324) requires that aoudad sheep be taken only by permit in certain Panhandle counties where aoudad sheep are classified as game animals. Section 65.27 (127.70.01.326) requires that deer taken during the designated special four-day either sex white-tailed deer season in Bosque, Erath, and Tyler Counties must be checked at a department checking station.

Section 65.25 (127.70.01.324) is being proposed for repeal as the population of aoudad sheep is sufficient that permits are no longer necessary to control harvest. Section 65.27 (127.70.01.326) is proposed for repeal as antlerless deer harvest will be controlled by issuance of permits. The proposed repeal of §65.25 and §65.27 (127.70.01.324 and .326) is subject to change as a result of public hearing testimony obtained during the week of March 16-20, 1981, in compliance with Texas Parks and Wildlife Code, §61.101.

The department staff (Wildlife Division) has determined that the repeal will have no fiscal implications for the state or units of local government.

Comments on the repeal may be submitted by contacting Phil Evans, regulatory coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4875. Comments must be received within 30 days of the publication of the proposed repeal in the *Texas Register*.

Repeal of §65.25 and §65.27 (127.70.01.324 and .326) is proposed under the authority of the Uniform Wildlife Regulatory Act, Chapter 61, Texas Parks and Wildlife Code.

§65.25 (127.70.01.324) *Aoudad Sheep Permits.*

§65.27 (127.70.01.326). *Deer Check Stations: Bosque, Erath, and Tyler Counties.*

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Doc. No. 811667 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife Department

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For further information, please call (512) 475-4954.

Part X. Texas Water Development Board

Chapter 341. Consolidated Permits

The Texas Department of Water Resources proposes to amend Chapter 341 (156.25) of the Texas Water Development Board rules, which presently relates to waste discharge permits. The department is proposing to amend the chapter to incorporate not only the permitting procedures and requirements of Chapter 343 (156.26) but also of the Texas Water Code, Chapter 27, the Disposal Well Act, and of Texas Civil Statutes, Article 4477-7, the Solid Waste Disposal Act. This chapter retains portions of the existing sections found in Chapters 335 (156.22) and 341 (156.25) of the rules and add new sections dealing with these three permitting programs, thus requiring the amendment of the chapter title to "Consolidated Permits." The purposes of consolidating the permitting procedures and requirements for the three permitting programs is to first, simplify the sections by placing them in one chapter; and, second, to incorporate necessary requirements to provide a state permitting program substantially equivalent to certain federal permitting programs including the Underground Injection Control. Upon adoption of these new sections, the existing permitting sections will be repealed where appropriate.

The executive director of the department has determined that this proposal will have no additional fiscal impact to the state or units of local government above those anticipated as a result of the federal regulations previously promulgated by the United States Environmental Protection Agency (EPA). No local units of government have been consulted in this estimate.

Public comment on the proposal is invited. To facilitate public participation, the executive director of the department has scheduled a public meeting to receive any public comments, beginning at 9 a.m. April 14, 1981, Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Persons may also submit their comments in writing to Donald Walker, attorney, General Counsel's Office, Texas Department of Water Resources, P.O. Box 13087, Austin.

Texas 78711. The department intends that this proposal be finally acted upon by the Texas Water Development Board at its regularly scheduled monthly meeting on April 24, 1981.

Emergency Orders

The department proposes to adopt amendments to §341.91 and §341.93 (156.25.25.001.003) which relate to the issuing of emergency and temporary orders pursuant to Texas Water Code, §26.0191.

The proposed changes to §341.91 (156.25.25.001) add an immediate and serious threat to human life or health or the environment as a consideration of the department in issuing an emergency order. The proposed change to §341.93 (156.25.25.003) is proposed for clarification.

These amendments are proposed under the authority of Texas Water Code, §§5.131 and 5.132.

§341.91 (156.25.25.001). *Emergency Order Terminating Discharges* If the executive director determines there is good reason to believe that a discharge or proposed discharge of defined waste into or adjacent to any water in the state, whether the discharge is covered by a waste discharge permit or not, **presents an immediate and serious threat to human life, health, or the environment** or is creating or will cause extensive or severe property damage or economic loss to others, and that other procedures available to the department to remedy the situation or prevent the situation from occurring will result in unreasonable delay, the executive director may request the commission to issue **an emergency** [a temporary] order to the person responsible for or exercising control over the discharge or proposed discharge, directing that the discharge be discontinued, modified, or not made, or that other appropriate remedial or preventive measures be taken. The order may be issued without notice and hearing, or with such notice and hearing as the commission deems practicable under the circumstances. The **emergency** [temporary] order shall be complied with immediately upon its receipt by the person to whom it is directed.

§341.93 (156.25.25.003). *Notice and Hearing.*

(a) If the commission deems it practicable to do so, it shall call a public hearing before issuing an emergency or temporary order as authorized by this subchapter. If the commission issues an emergency or temporary order without a hearing before the commission, the commission in its order shall call **a hearing** and set a time and place for a hearing to be held before the commission as soon after the emergency or temporary order is issued as is practicable. At the hearing, the commission shall consider whether to affirm, modify, or set aside the emergency or temporary order.

(b) (No change.)

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Doc. No. 811686 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Proposed Date of Adoption April 24, 1981
For further information, please call (512) 475-7836.

Enforcement

The department proposes to adopt amendments to §§341.101-341.103 (156.25.30.001-.003) which relate to issuance of enforcement orders by the department. The amendments add violations of the Solid Waste Disposal Act as the subject of enforcement orders in addition to violations of the Texas Water Code, Chapters 26 and 27.

These amendments are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.101 (156.25.30.001). *Enforcement Orders.* The commission, upon the recommendation of the executive director, may issue appropriate orders enforcing and directing compliance with the provisions of the Texas Water Code **or the Solid Waste Disposal Act** administered by the department, the provisions of a [waste discharge] permit, the rules, and other orders of the department. A copy of every such order shall be sent by certified mail to the person to whom it is directed. However, when the time factor is critical, the order may be delivered in person, transmitted by telephone or by telegraph, or delivered by any other satisfactory method, but it shall be promptly followed by the written order sent by certified mail as aforesaid. When the person to whom the order is directed receives it, regardless of how he initially received it, he shall immediately comply with it according to its terms.

§341.102 (156.25.30.002). *Hearings on Violations* The commission may, upon the request of the executive director, order a public hearing with respect to violations of the provisions of the Texas Water Code **or the Solid Waste Disposal Act** administered by the department or of any [waste discharge] permit, rule, or other order of the department. The commission may receive pertinent and relevant proof from any party who appears at the hearing, compel the attendance of witnesses, and make findings of fact and conclusions of law.

§341.103 (156.25.30.003). *Legal Proceedings* The executive director is authorized to institute or cause to be instituted, in courts of competent jurisdiction, legal proceedings to enforce and compel compliance with the provisions of the Texas Water Code **or the Solid Waste Disposal Act** administered by the department and the [waste discharge] permits, rules, decisions, determinations, and other orders of the department.

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Texas Department of Water Resources

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For further information, please call (512) 475-7836.

General Provisions

This subchapter establishes the scope and applicability of Chapter 341 (156.25) and sets out definitions for the entire chapter.

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.121 (156.25.02.001). *Scope and Applicability.* The provisions of this chapter set the standards and requirements for applications, permits, and actions by the commission to carry

out the responsibilities under Texas Water Code, Chapters 26 and 27, and Texas Civil Statutes, Article 4477-7.

§341.122 (156.25.02.002). Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Application—A formal written request for department action relative to a permit, either on department forms or other approved writing, together with all materials and documents submitted to complete the application.

Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Facility—All contiguous land and fixtures, structures, or appurtenances, used in connection with waste storage, processing, or disposal.

Injection well permit—A permit issued pursuant to Texas Water Code, Chapter 27.

Operator—The person responsible for the overall operation of a facility.

Owner—The person who owns a facility or part of a facility.

Permit—A written document issued by the commission which, by its conditions, may authorize the permittee to construct, install, modify, or operate, in accordance with stated limitations a specified facility for waste discharge, for solid waste storage, processing, or disposal, or for underground injection, and includes a waste discharge permit, a solid waste permit, and an injection well permit.

Person—An individual, corporation, organization, government, governmental subdivision or agency, business trust, estate, partnership, or any other legal entity or association.

Processing—The extraction of materials, transfer or volume reduction, conversion to energy, or other separation and preparation of waste for reuse or disposal, and includes the treatment or neutralization of hazardous waste so as to render such waste nonhazardous, safer for transport, or amenable to recovery, storage, or volume reduction. The meaning of "transfer" as used in this section, does not include the conveyance or transport off site of solid waste by truck, ship, pipeline, or other means.

Site—The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid waste permit—A permit issued pursuant to Texas Civil Statutes, Article 4477-7.

Storage—The holding of waste for a temporary period, at the end of which the waste is processed, disposed of, or stored elsewhere.

Waste discharge permit—A permit issued pursuant to Texas Water Code, Chapter 26.

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 General Counsel
 Texas Department of Water Resources

Proposed Date of Adoption, April 24, 1981
 For further information, please call (512) 475-7836

Applications and Review

This subchapter provides general application procedures for all permits included in Chapter 341 (156.25). These provisions include requirements to submit an application, signatories to applications, retention of application data, review and action on applications, and draft permits.

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.131 (156.25.02.001). Applicability The sections of this subchapter apply to all applications required to be filed with the department for authorization under Texas Water Code, Chapters 26 and 27, and Texas Civil Statutes, Article 4477-7.

§341.132 (156.25.02.002) Application Required. Any person who is required to obtain a permit, or who requests an amendment, renewal, revocation, or suspension of a permit shall complete, sign, and submit an application to the executive director according to the sections of this chapter.

§341.133 (156.25.02.003). Signatories to Applications.

(a) All applications shall be signed by the operator or the permittee as follows:

(1) For a corporation—by a principal executive officer of at least the level of vice president or a duly authorized representative if such representative is responsible for the overall operation of the facility. A representative shall submit in writing proof of the authorization;

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency—by either a principal executive officer or ranking elected official.

(b) Except for the executive director, a person signing an application shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of civil penalty and criminal fine.

(c) For hazardous solid waste permit applications, the owner and operator of a facility must sign the application.

§341.134 (156.25.02.004). Retention of Application Data. Applicants shall keep records of all data used to complete applications and any supplemental information for a period of at least three years from the date the application is signed.

§341.135 (156.25.02.005). Review of Application. The executive director will review each application and accompanying data, information, and materials to determine if the application is complete. If an application is not complete, the executive director shall notify the applicant and include a list of the information necessary to make the application complete. The application is complete when the listed information is received by the executive director. After receiving the listed information, the executive director may request additional information only when necessary to clarify, modify, or supplement the previously submitted material.

§341.136 (156.25.02.006) Failure To Complete an Application If an applicant does not submit a complete application and fails or refuses to correct deficiencies in the application,

the executive director may withhold further review and return the application to the applicant.

§341.137 (156 25.02.007). Application Forwarded to Commission. When an application is complete, the executive director will forward the application to the commission. For the purpose of providing adequate notice, the executive director will include a recommendation to the commission of the area wherein the application, if granted, would have a potential impact, and a list of persons who may be affected. The executive director will make a recommendation to the commission that the application be granted, denied, or granted in part before the commission acts on the application.

§341.138 (156 25.02.008) Draft Permit. The executive director will prepare a draft permit unless a recommendation is made not to grant an application. The draft will be subject to change during the course of the proceedings on the application. The draft permit will be considered by the Executive Review Committee. After the Executive Review Committee approves a draft permit, it will be available for public review. The approved draft permit will be filed with the commission to be included in its consideration of the application for permit.

§341.139 (156 25.02.009) Designation of Material as Confidential.

(a) Certain material submitted to the department may be determined to be confidential and withheld from public review. The applicant shall identify any material for which confidentiality is requested.

(b) Each claim of confidentiality must be substantiated upon submission of the material with the application, or the material will be considered available for public review.

(c) Reasons of confidentiality include the concept of trade secrecy and other related legal concepts which give a business the right to preserve confidentiality of business information to obtain or retain advantages from its right in the information. This includes authorizations under 5 United States Code 552(b)(4), 18 United States Code 1905, and special rules cited in 40 Code of Federal Regulations §§2.301-2.309.

(d) The executive director will review each claim of confidentiality. If a claim is not approved, the applicant will be notified and informed whether the material is essential to the application. The applicant may elect to withdraw any material submitted with an application.

(e) The name and address of an applicant or permittee will not be considered confidential.

(f) For injection well applications information which deals with the existence, absence, or levels of contaminants in drinking water will not be considered confidential.

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Doc. No. 811680 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

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For further information, please call (512) 475-7836.

Application for Permit

This subchapter sets out specific application requirements for permits for injection wells, solid waste processing, storage or disposal facilities, and waste water discharge facilities. These sections establish specific requirements for the contents of the various applications.

The following sections are proposed under the authority of the Texas Water Code, §§5 131 and 5 131.

§341.151 (156 25.04.001) Applicability. The sections of this subchapter establish the requirements for applications for permits for injection wells, solid waste processing, storage or disposal, and waste water discharge.

§341.152 (156 25.04.002) Who Applies. It is the duty of the owner of a facility to submit an application for permit; except if a facility is owned by one person and operated by another, it is the duty of the operator to submit an application for permit.

§341.153 (156 25.04.003). Contents of Application for Permit. Forms for permit applications will be made available by the department. Each application for permit shall include the following:

(1) The name, mailing address, and location of the facility for which the application is submitted.

(2) The ownership status as federal, state, private, public, or other entity.

(3) The operator's name, mailing address, and telephone number.

(4) A brief description of the nature of the business.

(5) The activities conducted by the applicant which require a permit.

(6) Up to four SIC codes which best reflect the principal products or services provided by the facility.

(7) A topographic map, ownership map, county highway map, or a map prepared by a registered professional engineer or a registered surveyor which shows the facility and each of its intake and discharge structures and any other structure or location regarding the regulated facility and associated activities. Maps must be of material suitable for a permanent record, and shall be on sheets 8-1/2 inches by 14 inches or folded to that size, and shall be on a scale of not less than one inch equals one mile. The map shall depict the approximate boundaries of the tract of land owned or to be used by the applicant and shall extend at least one mile beyond the tract boundaries sufficient to show the following:

(A) each well, spring, and surface water body or other water in the state within the map area;

(B) the general character of the areas adjacent to the facility including public roads, towns, and the nature of development such as residential, commercial, agricultural, recreational, undeveloped, and so forth;

(C) the location of any waste disposal activities conducted on the tract not included in the application;

(D) the ownerships of tracts of land within a reasonable distance from the proposed point or points of discharge, deposit, injection, or other place of disposal or activity;

(E) such other information that may be requested by the executive director.

(8) A listing of all permits or construction approvals received or applied for under any of the following programs:

(A) Hazardous Waste Management Program under the Texas Solid Waste Act;

(B) UIC Program under the Texas Injection Well Act;

(C) NPDES Program under Clean Water Act and Waste Discharge Program under the Texas Water Code, Chapter 26;

(D) Prevention of Significant Deterioration (PSD) Program under the Clean Air Act.

(E) Nonattainment Program under the Clean Air Act;

(F) national emission standards for hazardous pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(G) ocean dumping permits under the Marine Protection Research and Sanctuaries Act,

(H) dredge or fill permits under the Clean Water Act, §404;

(I) other environmental permits

(9) Whether the facility is located on Indian lands.

(10) Supplementary technical report When requested by the executive director, a supplementary technical report shall be submitted in connection with an application. The report shall be prepared either by a registered professional engineer or by a qualified person who is competent and experienced in the field to which the application relates who is thoroughly familiar with the operation or project for which the application is made. The report shall include the following:

(A) a general description of the facilities and systems used for or in connection with the collection, transportation, treatment, and disposal of waste, or used in connection with an injection activity;

(B) for each outfall, injection well place of deposit, or place of disposal

(i) the volume and rate of disposal of the defined waste or of fluid injection, including daily and yearly averages, the maximum rates of disposal or injection over representative periods of time, and detailed information regarding patterns of disposal or injection, and

(ii) the physical and chemical properties of the defined waste or the injection fluids, the characteristics of the waste or the injection fluid; chemical, physical, thermal, organic, bacteriological, or radioactive, as applicable, should be described in enough detail to allow evaluation of the water and environmental quality considerations involved;

(C) such other information as may be reasonably required for an adequate understanding of the project or operation, and which is necessary to provide the department an adequate opportunity to make the considerations required by §353.121 (156.27.20.001) of this title (relating to Class I Wells) and §353.122 (156.27.20.002) of this title (relating to Class III Wells) for injection well permits, and rules to be promulgated for solid waste permits and for waste discharge permits.

§341.154 (156.25.04.004) *Mailing Fee Deposit* An applicant shall include with each application a fee of \$5.00 to be applied toward the cost of providing notice by mail.

§341.160 (156.25.04.010) *Additional Contents of Application for an Injection Well Permit*

(a) The following shall be included in an application for an injection well permit:

(1) for Class I wells, the information listed in §353.121 (156.27.20.001) of this title (relating to Class I wells);

(2) for Class III wells, the information listed in §353.122 (156.27.20.002) of this title (relating to Class III wells);

(3) the manner in which financial responsibility will be attained;

(4) a plugging and abandonment plan;

(5) a fee of \$25 for each disposal well proposed in the application;

(6) a letter from the Railroad Commission of Texas stating that the drilling of a disposal well and the injection of the waste into the subsurface stratum selected for disposal will not endanger or injure any oil or gas formation;

(7) for Class III wells, a description of all liquid and solid nonradioactive wastes resulting from mining activities;

(8) a complete delineation of any aquifer or portion of an aquifer for which exempt status is sought; and

(9) any other information required by the executive director to evaluate the proposed injection well or project.

(b) An application for production area authorization shall be submitted with and contain the following for each production area

(1) mine plan;

(2) a restoration table;

(3) a baseline water quality table;

(4) control parameter upper limits;

(5) monitor well locations; and

(6) other required information.

§341.170 (156.25.04.020) *Additional Contents of Applications for Waste Discharge Permits* The following shall be included in an application for a waste discharge permit. If the application is for the disposal of any waste into or adjacent to a watercourse, the application map or supplemental map shall show the ownership of the tracts of land for a reasonable distance along the watercourse. The applicant shall list on the map, or in a separate sheet attached to the map, the names and addresses of the owners of the tracts of land as determined from the current county tax rolls or other reliable resources. As part of his application, the applicant shall submit an affidavit which lists the names and addresses of the owners of tracts of land affected by the application and shall include the source of the list.

§341.180 (156.25.04.030) *Additional Contents of Application for a Solid Waste Permit* (Reserved for future expansion.)

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Doc. No 811681

M Reginald Arnold II

General Counsel

Texas Department of Water Resources

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For further information, please call (512) 475-7836.

Permit Characteristics and Conditions

This subchapter establishes the characteristics and standards for all permits issued pursuant to Chapter 341 (156.25). These sections set out standard conditions applicable to the various permits included in the chapter.

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.171 (156.25.11.001). Applicability. The sections of this subchapter establish the characteristics and standards for permits issued for injection wells, waste discharge, and solid waste.

§341.172 (156.25.11.002). Characteristics of Permits.

(a) A permit issued within the scope of this subchapter does not convey any property rights of any sort, or any exclusive privilege, and does not become a vested right in the permittee.

(b) The issuance of a permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations.

(c) Compliance with a permit during its term constitutes compliance with the applicable rules and statutes.

§341.173 (156.25.11.003). Reservation in Granting Permit. Every permit is subject to further orders of the commission and rules of the board. In accordance with the procedures for amendments and orders, the commission may incorporate in every permit granted any condition, restriction, limitation, or provision reasonably necessary for the administration and enforcement of Texas Water Code, Chapters 26 and 27, and Texas Civil Statutes, Article 4477-7. Through its rulemaking authority, the board may incorporate in permits any condition, restriction, limitation, or provision, on a statewide or areawide basis, which is necessary to effectuate the policies in Texas Water Code, Chapters 26 and 27, and Texas Civil Statutes, Article 4477-7.

§341.174 (156.25.11.004). Acceptance of Permit; Effect. Acceptance of the permit by the person to whom it is issued constitutes an acknowledgment and agreement that he will comply with all the terms and conditions embodied in the permit, the rules of the department, and other orders of the department.

§341.175 (156.25.11.005). Standard Permit Conditions. The following conditions are applicable to all permits issued within the scope of this chapter, and shall be incorporated into each permit expressly or by reference to these sections.

(1) The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Solid Waste Disposal Act, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application.

(2) In order to continue a permitted activity after the expiration date of the permit, the permittee must apply for and obtain a new permit or renewal.

(3) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(4) The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

(5) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process

controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) The permittee shall furnish to the executive director, within a reasonable time, any information which the executive director may request to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the executive director, upon request, copies of records required to be kept by this permit.

(7) The permittee shall give notice to the executive director of any planned physical alterations or additions to the permitted facility before the change or alteration is begun.

(8) Written approval from the executive director is required before beginning any change in the permitted facility or activity that would result in noncompliance with other permit requirements.

(9) Unless specified otherwise, the permittee shall report any noncompliance which may endanger health or the environment. Report of such information shall be provided orally within 24 hours from the time the permittee becomes aware of the noncompliance. A written submission of such information shall also be provided within five working days of the time the permittee becomes aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(10) Inspection and entry shall be allowed as prescribed in Texas Water Code, §§27.071 and 27.072.

(11) Monitoring samples and measurements shall be representative of the monitored activity. Monitoring records, including strip charts and records of calibration and maintenance, shall be retained for a period of three years from the date of the report. Records of monitoring activities shall include the following:

- (A) date, time, and place of sample or measurement;
- (B) individual who collected the sample or made the measurement;
- (C) date of analysis;
- (D) the individual who made the analysis;
- (E) the technique or method of analysis; and
- (F) the results of the analysis.

(12) Any compliance other than that specified above, or any required information not submitted or submitted incorrectly, shall be reported to the executive director as promptly as possible.

(13) This permit may be transferred only according to the provisions of §341.224 (156.25.31.015) of this title (relating to Transfer of Permits) and §341.268 (156.25.36.010) of this title (relating to Action on Application for Transfers).

(14) All reports and other information requested by the executive director shall be signed by the person and in the manner required by §341.133 (156.25.03.003) of this title (relating to Signatories to Applications). Such person may authorize a representative to sign reports if:

- (A) The authorization is made in writing;
- (B) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.);
- (C) The written authorization is submitted to the executive director; and
- (D) If an authorization under this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports, information, or applications to be signed by an authorized representative.

§341.176 (156.25.11.006). Conditions To Be Determined for Individual Permits. The following conditions are to be determined on a case-by-case basis according to the criteria set forth herein, and when applicable shall be incorporated into the permit expressly or by reference.

- (1) Duration.
- (A) Injection well permits.
- (i) Permits for Class I wells shall be effective for a fixed term not to exceed 10 years.
- (ii) Permits for Class III wells or areas may be effective for the life of the well or project, and shall be reviewed at least once every five years.
- (B) Solid waste permits.
- (i) Hazardous waste permits shall be effective for a fixed term not to exceed 10 years.
- (ii) Other solid waste permits may be effective for the life of the project.
- (C) Waste discharge permits shall be effective for a term of five years.
- (2) Monitoring, recording, and reporting.
- (A) Requirements concerning the proper use, maintenance, and installation of monitoring equipment or methods shall be set when appropriate.
- (B) The type, intervals, and frequency of monitoring shall be set to yield representative data of the monitored activity, at a minimum as specified in department rules for monitoring and reporting.
- (C) Other requirements for monitoring and reporting shall be set at a minimum as specified in department rules for monitoring and reporting.
- (3) Schedule of compliance.
- (A) A schedule of compliance prescribing a timetable for achieving compliance with the permit conditions, the appropriate Act, and regulations may be incorporated into a permit. The schedule shall require compliance as soon as possible and may set interim dates of compliance. For injection wells, compliance shall be required not later than three years after the effective date of the permit.
- (B) For schedules of compliance exceeding one year, interim dates of compliance not exceeding one year shall be set, if possible.
- (C) Reporting requirements for each schedule of compliance shall be set. Reports of progress and completion shall be submitted to the executive director no later than 14 days after each schedule date.

- (4) Requirements for individual programs. Requirements to provide for and assure compliance with standards set by the rules of the department and the laws of Texas shall be determined and included in permits on a case-by-case basis to reflect the best method for attaining such compliance. Reference is made to Chapter 353 (156.27) for injection well standards, to Chapter 335 (156.22) for solid waste facility standards, and to a chapter to be promulgated for waste discharge standards.

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Additional Conditions for Injection Well Permits

This subchapter establishes specific permit conditions applicable to all Class I (industrial and municipal waste disposal) and Class III (numerical extraction) injection well permits issued pursuant to the Texas Water Code, Chapter 27. These conditions may be either incorporated into permits expressly or by reference. In addition, the department may require such conditions as are necessary to prevent pollution of fresh water in Class V injection well permits.

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.191 (156.25.16.001). Applicability. Unless stated otherwise, the following conditions apply to all Class I and Class III injection well permits and shall be incorporated into the permit expressly or by reference. The department may require such conditions as are necessary to prevent pollution of fresh water in Class V injection well permits. These conditions are in addition to those set forth in §§341.51-341.56 (156.25.10.001-.006) of this title (relating to Revocation, Suspension, and Amendment of Waste Discharge Permits).

§341.192 (156.25.16.002). Corrective Action.

- (a) For such wells within the area of review which are inadequately constructed, completed, or abandoned, and which as a result of the injection activities may cause the pollution of fresh water, the commission shall prescribe or incorporate into the permit a condition requiring corrective action adequate to prevent such pollution.
- (b) The criteria of §353.144 (156.27.02.004) of this title (relating to Corrective Action Standards) will be used to determine adequacy.
- (c) A permit issued for an existing injection well requiring corrective action may include a compliance schedule prescribing the time within which the corrective action must be completed.
- (d) As part of the corrective action plan, the commission may impose an injection pressure limitation that does not exceed hydrostatic pressure at such inadequate well(s) (as described in subsection (a) of this section), which condition shall expire upon adequate completion of all corrective action measures.

(e) Action prescribed by a corrective action plan for new wells or new areas must be completed to the satisfaction of the executive director before operation of the well begins.

(f) In the event that, after an authorization for injection has been granted, additional information is submitted or discovered that a well within the applicable area of review might pose a hazard to a fresh water aquifer, the commission may prescribe a corrective action plan and compliance schedule as a condition for continued injection activities.

§341.193 (156.25.16.003). Financial Responsibility. The permittee shall secure and maintain a bond or other equivalent form of financial assurance or guarantee approved by the department to close, plug, and abandon the injection operation in the manner prescribed by the department. The assurance may cover more than one well or operation.

§341.194 (156.25.16.004). Standards. At a minimum, the permittee shall comply with the standards prescribed by this section and by Chapter 353 (156.27) of the rules (referenced in the following paragraphs). The commission may impose stricter standards if deemed necessary to prevent pollution of fresh water.

(1) Construction requirements—§353.62 (156.27.05.002) of this title (relating to Construction Standards) and §353.82 (156.27.10.002) of this title (relating to Construction Requirements).

(2) The commission may establish a compliance schedule for existing wells to achieve compliance with the requirements of this section.

(3) Changes in construction plans shall be approved by certification under §353.45 (156.27.02.005) of this title (relating to Certification of Construction and Completion) or, if required, by permit amendment before such changes may be physically incorporated into construction of the well.

(4) Commencement of injection operations prior to certification by the executive director that construction and completion are compliant shall constitute a violation of the permit and may be considered grounds for revocation or suspension of the permit, as well as for enforcement action.

(5) Operating requirements—§353.63 (156.27.05.003) of this title (relating to Operating Requirements) and §353.83 (156.27.10.003) of this title (relating to Operating Requirements).

(6) Monitoring and reporting—§353.64 (156.27.05.004) of this title (relating to Monitoring Requirements) and §353.65 (156.27.05.005) of this title (relating to Reporting Requirements); §353.84 (156.27.10.004) of this title (relating to Monitoring Requirements) and §353.85 (156.27.10.005) of this title (relating to Reporting Requirements); or §353.101 (156.27.15.001) of this title (relating to Applicability), §353.102 (156.27.15.002) of this title (relating to Confinement of Mining Solution), §353.103 (156.27.15.003) of this title (relating to Production Area Monitor Wells), §353.104 (156.27.15.004) of this title (relating to Establishment of Baseline Water Quality), §353.105 (156.27.15.005) of this title (relating to Monitoring Standards), §353.106 (156.27.15.006) of this title (relating to Remedial Action for Excursion); §353.107 (156.27.15.007) of this title (relating to Six-Month Information Report), §353.108 (156.27.15.008) of this title (relating to Restoration).

(7) The permittee shall notify the executive director and obtain approval before plugging an injection well.

§341.195 (156.25.16.005). Production Area Authorization. A production area authorization shall include for each production area:

- (1) a mine plan;
- (2) a restoration table;
- (3) a baseline water quality table;
- (4) control parameters upper limits;
- (5) monitor well locations; and,
- (6) special provisions required by the commission.

§341.196 (156.25.16.006). Hazardous Waste. For a hazardous waste disposal well, the surface facilities shall comply with Chapter 335 (156.22) of department rules regulating hazardous solid waste facilities. The surface facilities for an injection well which disposes of hazardous waste is a hazardous waste management facility.

§341.197 (156.25.16.007). Permit Condition(s) Suspended. Failure to comply with a permit condition shall not be considered a violation under the Act or these sections if such failure to comply is authorized by a temporary order of the commission.

§341.198 (156.25.16.008). Record Retention. The permittee shall retain all records concerning the nature and composition of injected fluids until five years after completion of plugging and abandonment procedures for the well. The executive director may copy the records at any time prior to conclusion of the retention period.

§341.199 (156.25.16.009). Additional Conditions. The commission shall impose any other condition necessary to prevent the pollution of fresh water.

§341.200 (156.25.16.010). Additional Class I Conditions. A permit for a Class I well shall include expressly or by reference the following conditions:

(1) A sign shall be posted at the well site which shall show the name of the company, company well number, and permit number. The sign and identification shall be in the English language, clearly legible, and shall be in numbers and letters at least one inch high.

(2) An all-weather road shall be installed and maintained to allow access to the injection well and related facilities.

(3) The well head and associated facilities shall be painted, if appropriate, and maintained in good working order without significant leaks.

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Additional Conditions for Waste Discharge Permits

This subchapter establishes specific permit conditions applicable to all waste discharge permits issued pursuant to the Texas Water Code, Chapter 26.

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.211 (156.25.21.001). Applicability. The following provisions apply to waste discharge permits.

§341.212 (156.25.21.002). Measurements of Quantity. Any one or more of the following time-quantity measurements may be used in describing the quantity of the discharge of a defined waste authorized to be discharged under a waste discharge permit, rule, or other order of the department, unless some other measurement is specified in the waste discharge permit, rule, or other order. Any one or more of the following methods of measuring quantity as a function of time, to the extent applicable to the waste discharge of the defined waste in question, may be used in ascertaining the quantity of the discharge, unless some other method is specified.

(1) Average or monthly average. The quantity of a discharge of a defined waste stated as an average, not to exceed an average, or monthly average in gallons or other units of measurement per day, means and is determined by deriving the arithmetic average of the total of all daily discharges of the defined waste over a period of 30 consecutive days. However, for monitoring and reporting purposes only, the monthly average quantity may be derived on a calendar month basis or on such other basis as may be agreed upon between the person making the discharge and the executive director unless specified in the waste discharge permit, rule, or other order.

(2) Daily quantity. The quantity of the discharge of a defined waste stated so as not to exceed a specific maximum number of gallons or other units of measurement per day, means and is determined by deriving the total volume of the discharge of the defined waste over 24 consecutive hours. For self-reporting purposes only, the 24-hour reporting period may start and end at such times as may be established and used by the person making the discharge.

(3) Quantity per minute. The quantity of a discharge of defined waste stated so as not to exceed a maximum number of gallons or other units of measurement per minute, means and is determined by deriving the total volume of the discharge of the defined waste over a period of 60 consecutive seconds of time.

§341.213 (156.25.21.003) Measurements of Quality. Any one or more of the following methods of measuring quality as a function of time, to the extent applicable to the discharge of the defined waste in question, may be used in ascertaining the quality of the discharge of the defined waste unless some other method is specified. In analyzing the quality of water or the discharge of any defined waste, the latest edition of *Standard Methods for the Examination of Water and Waste Water* shall be used unless other analytical methods are approved by the commission.

(1) Average or monthly average quality. Average or monthly average quality means the quality determined by measuring the concentration in milligrams per liter, parts per million, or other appropriate units of measurement derived from the arithmetic average of the concentration in individual samples of the discharge of the defined waste taken at selected, representative intervals over a period of 30 consecutive days, unless otherwise specified in the permit, rule, or other order, or agreed to by the executive director. In the computation, each analytical value from an individual sample shall be weighted according to the flow at the time of sampling. However, for monitoring and reporting purposes only, the monthly average quality may be derived on a calendar month basis or on such other basis as may be agreed upon

between the person making the discharge and the executive director, unless specified in the permit, rule, or other order.

(2) Twenty-four-hour composite quality. Twenty-four-hour composite quality means the quality determined by measuring the concentration in milligrams per liter, parts per million, or other appropriate units of measurement in a combination of grab samples of the discharge of a defined waste taken at selected, representative intervals over a period of 24 consecutive hours. The volume of each sample in the composite shall be proportional to the flow at the time of sampling. For monitoring and reporting purposes only, the 24-hour reporting period may start and end at such times as may be estimated and used by the person making the discharge.

(3) Individual or grab sample quality. Individual or grab sample quality means the quality determined by measuring the concentration in milligrams per liter, or parts per million, or other appropriate unit of measurement in a single grab sample of the discharge of a defined waste.

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Amendments, Renewals, Transfers, Revocation, or Suspension

This subchapter sets forth the standards and requirements for applications and actions concerning amendments, renewals, transfers, and revocation or suspension of permits covered in Chapter 341 (156.25).

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.221 (156.25.31.001). Applicability. The sections of this subchapter set forth the standards and requirements for applications and actions concerning amendments, renewals, transfers, and revocation or suspension of permits.

§341.225 (156.25.31.005) Amendment

(a) A change in a term, condition, or provision of a permit requires an amendment. A permit may be amended upon request by the permittee or an interested person. If the executive director determines such a request is not justified, the executive director will respond stating the reasons for that determination. The requester may petition the commission for a review of the request and the executive director's recommendation.

(b) Application for amendment. An application for an amendment to a permit shall include all requested changes to the permit. Information sufficient to review the application shall be submitted in the form and manner and under the procedures specified in §§341.121 and 341.122 (156.25.02.001 and .002) of this title (relating to General Provisions). The application shall include a statement describing the reason for the requested changes.

(c) Types of amendments.

(1) A major amendment is an amendment that changes a substantive term, provision, requirement, or a limiting parameter of a permit.

(2) A minor amendment is an amendment to improve or maintain the permitted quality or method of disposal of waste if there is neither a significant increase of the quantity of waste to be discharged nor a material change in the pattern or place of discharge. A minor amendment includes any other change to a permit issued under this chapter that will not cause a potential deterioration of quality or relax a standard or criteria which may result in a potential deterioration of quality. A minor amendment also includes but is not limited to the following:

(A) changing an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date;

(B) for solid waste permits, changing the lists of facility emergency coordinators or equipment in the permits contingency plan.

(d) The executive director may initiate and the commission may order an amendment to a permit if good cause exists. Good cause includes the following:

(1) There are material and substantial changes to the permitted facility or activity which justify permit conditions that are different or absent in the existing permit.

(2) Information not available at the time of permit issuance is received by the executive director, and such information justifies amendment of existing permit conditions.

(3) The standards or regulations on which the permit or a permit condition was based have been changed by new standards or regulations or by judicial decision.

(4) An act of God, strike, flood, material shortage, or other events over which the permittee has no control and for which there is no reasonably available alternative may be determined to constitute good cause for amendment of a compliance schedule.

(e) Amendment initiated by the executive director. If the executive director determines to file a petition to amend a permit, notice of the determination stating the grounds therefor and a copy of a proposed amendment draft shall be personally served on or mailed to the permittee at the last address of record with the department. This notice shall be given at least 15 days before a petition is filed with the commission.

§341.230 (156.25.31.010). *Renewal.* The permittee or the executive director may file an application for renewal of a permit. The application shall be filed with the executive director before the permit expiration date.

(1) An application for renewal may be in the same form as that required for the original permit application.

(2) An application for renewal shall request continuation of the same requirements and conditions of the expiring permit.

(3) If an application for renewal in fact requests a modification of requirements and conditions of the existing permit, an application for amendment shall be filed before further action is taken.

(4) If renewal procedures have been initiated before the permit expiration date, the existing permit will remain in full force and effect and will not expire until commission action on the application for renewal is final.

(5) The department may deny an application for renewal for the grounds set forth in §341.240 (156.25.31.020) of this title (relating to Revocation and Suspension).

§341.235 (156.25.31.015). *Transfer of Permits.*

(a) A permit is issued in person and may be transferred upon approval by the commission. An attempted transfer is not effective until approved by the commission.

(b) The permittee shall submit to the executive director an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

(1) name and address of the transferee;

(2) date of proposed transfer;

(3) a written agreement between the existing and proposed permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(4) if the permit requires financial responsibility, the method by which the proposed transferee intends to assume or provide financial responsibility including proof of such financial responsibility to become effective when the transfer becomes effective

(c) If no agreement described in subsection (b)(3) of this section is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the transferor to the transferee on the date the transfer is approved.

(d) The executive director must be satisfied that proof of any required financial responsibility is sufficient before transmitting an application for transfer to the commission for further proceedings.

(e) If a person attempting to acquire a permit causes or allows operation of the facility before approval is given, it shall be considered a violation of these sections for operating without a permit or other authorization.

§341.240 (156.25.31.020). *Revocation and Suspension.*

(a) A permit or other order of the commission issued within the scope of this chapter may be revoked or suspended for good cause at any time by order of the commission after opportunity for a public hearing is given. Good cause includes the following:

(1) the holder has failed or is failing to comply with the conditions of the permit or other order, including failure to construct during the life of the permit facilities necessary to conform with the terms and conditions of the permit;

(2) the permit or the operations thereunder, have been abandoned;

(3) the permit or other order is no longer needed by the holder;

(4) the authority to discharge defined waste into or adjacent to the water in the state under a waste discharge permit is subject to cancellation or suspension under Texas Water Code, §26.084;

(5) the permittee's failure in the application or issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of relevant facts at any time;

(6) a determination that the permitted activity endangers human health or the environment to such an extent that permit termination is necessary to prevent further harm;

(7) the facility is being operated by a transferee before commission approval of the transfer;

(8) for Class III injection wells, failure to achieve satisfactory restoration progress; or

(9) such other cause sufficient to warrant termination of the authorization.

(b) When the executive director determines revocation or suspension proceedings are warranted, a petition requesting appropriate action will be filed by the executive director with the commission.

(c) Notice of determination for revocation or suspension. If the executive director determines to file a petition to revoke or suspend a permit, notice of the determination stating the grounds therefor shall be personally served on or mailed to the permittee at the last address of record with the department. This notice shall be given at least 15 days before a petition for revocation or suspension is filed with the commission for further proceedings.

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Actions, Notice, and Hearing

This subchapter sets forth the procedures by which action will be taken on permit applications filed with the Texas Water Commission. These sections include the requirements for public notice, opportunity for public hearing, and public hearings.

The following sections are proposed under the authority of the Texas Water Code, §§5.131 and 5.132.

§341.261 (156.25.36.001). Applicability. This subchapter sets forth the manner in which action will be taken on applications filed with the commission.

§341.262 (156.25.36.002). Action on Applications. The commission may conduct a public hearing on any application. The commission shall conduct a public hearing on an application for permit, major amendment, or renewal if a request for hearing is made by a commissioner, the executive director, or an affected person who objects to the application and files a request in accordance with the rules. If a hearing is held, notice of hearing shall be given by publication and by mail.

§341.265 (156.25.36.005). Action on Application for Permit.

(a) Except as provided in subsection (b) of this section, the commission may take action on an application at a regular meeting without holding a public hearing, provided:

(1) at least 45 days prior to the regular meeting at which action is taken, notice of the application has been given by publication and by mail; and

(2) within the 45-day period after the first publication of the notice, no request for a public hearing has been submitted by a commissioner, the executive director, or an affected person who objects to the application.

(b) The commission shall conduct a public hearing on an application involving off-site processing, storage, or disposal of solid waste as defined in §335.1 (156.22.02.001) of this title (relating to Definitions).

§341.266 (156.25.36.006). Action on Application for Production Area Authorization. The commission may take action on an application for production area authorization at a regular meeting without a public hearing provided notice of the application has been given by mail at least 10 days prior to the meeting.

§341.267 (156.25.36.007). Action on Application for Renewal.

(a) Except as provided in subsections (b) and (c) of this section, the commission may take action on an application for renewal in the manner prescribed by §341.265 (156.25.36.005) of this title (relating to Action on Application for Permit).

(b) The commission shall conduct a public hearing on an application for renewal if the executive director has recommended denial unless the permittee files sufficient consent and waiver of hearing, in which case the provisions of subsection (a) of this section apply.

(c) The commission may take action on an application to renew a permit for a confined animal feeding operation within the definition of Texas Water Code, §26.028(c), at a regular meeting without the necessity of holding a public hearing provided notice of the application is given by mail at least 10 days prior to the meeting.

§341.268 (156.25.36.008). Action on Application for Amendment.

(a) Except as provided in subsection (c) of this section, the commission may take action on an application for a major amendment in the manner prescribed by §341.265 (156.25.36.005) of this title (relating to Action on Application for Permit).

(b) The commission may take action on an application for minor amendment at a regular meeting without holding a public hearing provided notice of the application is given by mail at least 10 days prior to the meeting.

(c) The commission shall conduct a public hearing on a petition for a major amendment filed by the executive director unless the permittee files sufficient consent and waiver of hearing, in which case the provisions of subsection (a) of this section apply.

§341.269 (156.25.36.009). Action on Petition for Revocation or Suspension.

(a) The commission shall conduct a public hearing, on a petition to revoke or suspend a permit filed by the executive director; or

(b) The commission may take action on a petition to revoke or suspend a permit at a regular meeting without holding a public hearing provided notice of the petition is given by mail at least 10 days prior to the meeting, and if:

(1) the petition is filed by the permittee, or

(2) the permittee files sufficient consent and waiver of hearing.

§341.270 (156.25.36.010). Action on Application for Transfer. The commission may approve a transfer by order at a regular meeting or by endorsement of the chief clerk.

§341.271 (156.25.36.011). Scope of Proceedings. The commission may limit consideration to only those portions or provisions of a permit for which the application or petition requests action. All terms, conditions, and provisions of an existing permit remain in full force and effect during such actions, and the permittee shall comply with an existing permit until a new or amended permit is issued.

§341.275 (156.25.36.015). Commission Action.

(a) The commission may grant an application or petition in whole or in part, suspend the authority to conduct the activity or disposal of waste for a specified period of time, dismiss the proceedings, amend a permit or other order, or take any other action as may be appropriate.

(b) If the commission directs a person to perform or refrain from performing a certain act or activity, there shall be set forth in the order the findings on which the directive is based. The commission may set a compliance deadline in its order to represent a reasonable period of time in which:

- (1) to terminate the operation or activity;
- (2) to cease disposal of any waste;
- (3) to conform to the permit requirements, including any new or additional conditions imposed by the commission; or
- (4) to otherwise comply with the commission's order.

(c) The commission may grant an extension of time to a compliance deadline upon application by the holder of the permit and a presentation of good cause.

§341.280 (156.25.36.020). Notice of Application. A notice of application shall fairly set forth the substance of the application and proposed action including but not limited to the location and nature of any proposed or existing facility; the location of any point of injection, discharge, or place of disposal; the rate of discharge; the method for obtaining additional information about the application; the method for submitting response to the application; and such other information necessary to give a fair appraisal of the application.

§341.281 (156.25.36.021). Notice of Hearing. A notice of hearing shall identify the application; the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing is to be held; the proposed action; the requirements for submitting written protests; the method for obtaining additional information; and such other information the commission deems necessary.

§341.285 (156.25.36.025). Notice by Publication.

(a) If notice by publication is required, the applicant shall cause the notice approved by the commission to be published at least once in a newspaper of general circulation regularly published or circulated within each county where the proposed facility or discharge is to be located and in each county that would be affected by the facility or proposed discharge.

(b) The date of first publication for a notice of application shall be as set forth in this subchapter for each type of action.

(c) The date of first publication for a notice of hearing shall be not less than 20 days before the date set for hearing.

(d) For an application for permit, major amendment, or renewal involving hazardous waste, a required notice of application or notice of hearing shall be published once a week for two consecutive weeks and the notice may not be published in the part of the newspaper in which other legal notices or classified advertisements appear.

(e) The applicant is responsible for the cost of publication.

§341.286 (156.25.36.026). Notice by Mail.

(a) If notice by mail is required, the commission will mail the notice to persons who in the judgment of the commission may be affected. Personal service may be substituted for mailing.

(b) The notice shall be mailed to the following:

- (1) the landowners named on the application map or supplemental map, or on the sheet attached to the application map or supplemental map;

(2) the mayor and health authorities of the city or town in which the facility is located or in which waste is or will be disposed of;

(3) the county judge and health authorities of the county in which the facility is located or in which waste is or will be disposed of;

(4) the Texas Department of Health;

(5) the Texas Parks and Wildlife Department;

(6) the Texas Railroad Commission;

(7) for an injection well permit application, the Texas Water Well Drillers Board; and

(8) any other person the commission may include.

(c) The date of mailing for a notice of application shall be as set forth in this subchapter for each type of action.

(d) The date of mailing for a notice of hearing shall be at least 20 days before the date set for hearing.

(e) The applicant is responsible for the cost of mailing.

§341.290 (156.25.36.030). Request for Public Hearing.

(a) A request for public hearing under this Chapter 341 (156.25) must be made in writing and submitted by an affected person to the commission within 45 days after the first publication of the notice of application. The commission may extend the time allowed for submitting a request for public hearing.

(b) The written request shall contain the following information:

(1) the name, mailing address, and phone number of the person making the request;

(2) a brief description of the interest of the requester, or of persons represented by the requester; and,

(3) a brief description of how the application, if granted, would adversely affect such interest.

(c) An affected person is one who is determined by the commission to have an interest that may be adversely affected by action taken on the application.

(d) If the commission determines the request for public hearing is in compliance with this section, or that a public hearing would serve the public interest, the commission shall conduct a public hearing.

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811688

M. Reginald Arnold II

General Counsel

Texas Department of Water Resources

Proposed Date of Adoption: April 24, 1981

For further information, please call (512) 475-7836.

Chapter 353. Underground Injection Control

(Editor's note: The Texas Department of Water Resources proposes to add Chapter 353 (156.27), entitled Underground Injection Control, to the rules of the Texas Water Development Board. Due to the length of the chapter, the text of the sections listed below will not be published in this issue but will appear in the March 24 issue. The proposed date of adoption is April 24, 1981.

General Provisions

§§353.1, 353.2, 353.5-353.8, 353.10, 353.11,

353.15, 353.16, 353.20, 353.21, 353.25

(156.27.01.001, .002, .005-.008, .010, .011, .015,

.016, .020, .021, .025)

General Standards and Methods

§§353.41-353.46
(156.27.02.001-.006)

Standards for Class I Wells

§§353.61-353.67
(156.27.05.001-.007)

Standards for Class III Wells

§§353.81-353.85
(156.27.10.001-.005)

**Standards for Class III Well Production Area
Development**

§§353.101-353.109
(156.27.15.001-.009)

Considerations Prior to Permit Issuance

§§353.121, 353.122
(156.27.20.001, .002)



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

CODIFIED

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 5. Quarantines

Mediterranean Fruit Fly Quarantine

The Texas Department of Agriculture has withdrawn from further effectiveness the emergency adoption of §5.211 (176.22.20.001) of this title (relating to Mediterranean Fruit Fly Quarantine). The section was adopted on an emergency basis and published in the February 27, 1981, issue of the *Texas Register* (6 TexReg 751).

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811616 Macy Ramsey
 Agency Liaison
 Texas Department of Agriculture

Filed: March 11, 1981, 4:24 p.m.

For further information, please call (512) 475-6467.

TITLE 13. CULTURAL RESOURCES

Part III. Texas Commission on the Arts

Chapter 31. Agency Procedures

The Texas Commission on the Arts adopts amendments to §31.3 and §31.6 (353.01.00.003 and .006) with no changes from the text as proposed. The amendments make a slight change in §31.3(a) (353.01.00.003(a)) for clarification purposes; add a touring panel to the list of discipline panels in §31.6(b) (353.01.00.006(b)); and change the method of selecting panel members in §31.6(c) (353.01.00.006(c)).

The following amendments are adopted under the authority of Texas Civil Statutes, Article 6144g.

§31.3 (353.01.00.003). Meetings

(a) The commission shall hold four regular business meetings annually, normally in September, December, February, and May. A majority of the commissioners will set the date of regular meetings. Grant applications submitted to the commission will normally be considered at its December and May meetings.

(b)-(f) (No Change.)

§31.6 (353.01.00.006). Advisory Panels

(a) (No change.)

(b) The following panels are among those established: dance, education, literature, media, music, partnership, theatre, touring, and visual arts/architecture.

(c) Panel members are appointed in June of each year by the commission to serve three-year rotating terms. (Exception: the touring panel will consist of the chairperson of each discipline panel plus four members appointed for three-year terms.) The chairperson of each panel will be designated by the commission chairman prior to the first meeting in each fiscal year. Only those members who are entering their second or third year of membership will be eligible to serve as chairperson. Members may not be reappointed until one year has elapsed from a prior term i.e., three-year term, one year off before eligible to serve again.

(d)-(f) (No change.)

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811609 Allan Longacre
 Executive Director
 Texas Commission on the Arts

Effective Date: April 1, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 475-6593.

Chapter 35. Texas Arts Plan

The Texas Commission on the Arts adopts the amendment to §35.1 (353.03.00.001) which changes Section I: Financial Assistance Introduction, by eliminating the one application rule. Clarification of salary support grant application is amended in paragraph f.(1)(a).

The following amendment is adopted under the authority of Texas Civil Statutes, Article 6144g.

§35.1 (353.03.00.001). *Texas Arts Plan*. The commission adopts by reference the Texas Arts Plan as amended February 1981. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811610 Allan Longacre
 Executive Director
 Texas Commission on the Arts

Effective Date: April 1, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 475-6593.

Chapter 37. Guide to Assistance for Arts Programs

The Texas Commission on the Arts amends §37.1 and §37.2 (353.04.01.001 and .002) with changes to the text as proposed. The amendments remove the one application rule; require tax-exempt status at the time of application; stipulate matching requirements for school and free projects; include an additional advisory panel for touring applications; change application deadlines for major support, literature, media applications, and applications for sponsors of the touring program; and provide clarification for salary support grant applications.

The following amendments are adopted under the authority of Texas Civil Statutes, Article 6144g.

§37.1 (353.04.01.001). General Information.

(a) Eligibility.

(1) Any organization which qualifies as nonprofit, tax-exempt as defined by IRS, or which is public and tax-supported, is eligible for support under the Texas Commission on the Arts Assistance Program. IRS tax-exempt status is required before an organization may make application to the commission.

(2) (No change.)

(3) Any organization must be in existence for one year before making application to the commission, except special consideration requests.

(b) (No change.)

(c) Matching requirements. Funds provided by the state through the grants process must be matched by the application organization; matching funds are generally expected to be in cash or in cash and "in-kind."

(1) Cash. Cash includes all actual dollars spent on the project—fees, salaries, material, and may come from ticket sales, contributions, membership fees.

(A) All applications involving projects held in outdoor parks or facilities and making no admission charge to the public are required to have city dollar support as a part of the income match.

(B) For general support applications involving second-year funding for school projects, school dollar support is required for a part of the income match.

(2) (No change.)

(d) Assistance review. Organizations wishing to conduct programs identified in the State Plan or other art programs of benefit to the people of Texas may request assistance from the Texas Commission on the Arts. The assistance review process will be the basic system used to determine which arts program and activities will receive financial assistance or endorsement from the commission. Commission funds are not budgeted or assigned by geographic area or artistic discipline. Funds are budgeted for the specific programs of: touring, education, major support, and statewide partners. All other awards will be made with funds budgeted in the general support category. The commission will provide reasonable access to applicants for assistance in the preparation of grant applications. This includes printed material and consultation. Applicants whose applications are not successful will receive explanations or evaluations if requested.

(1) Review procedure.

(A) (No change.)

(B) Applications are then reviewed and evaluated by one or more of the commission's nine advisory panels

(dance, education, literature, media, music, partnership, theatre, touring, and visual arts/architecture) made up of professionals and lay people in each discipline. Panel recommendations are made to the commission's Assistance Review Committee.

(C)-(D) (No change.)

(2) (No change.)

(e) Assistance policies.

(1)-(6) (No change.)

(7) School projects. All applications involving general support school projects must include letters of support from the chief administrator of the school district.

(f) Application deadlines and notification.

(1) Application deadlines for the assistance review process are as follows (exceptions: sponsor applications for artist-in-residence programs; emergency or special consideration applications; and sponsor applications for in-state touring and NEA support of dance touring—see individual descriptions for further information).

(A) February 1 for projects beginning no earlier than the following May 1 for annual review of organizations wishing to participate in Texas touring arts programs, and for annual review of literature and media projects.

(B) September 1 for all other general projects beginning no earlier than the following December 1 and for major support applications beginning 12 months in the future.

(C) January 1 through October 1—application period for sponsors for touring season beginning September 1 each year. Sponsors can apply as early as January 1 or as late as October 1 but must have an application in at least 45 days prior to the performance date.

(2)-(3) (No change.)

(g)-(h) (No change.)

(i) Submitting an application.

(1)-(6) (No change.)

(7) Applications and detailed supporting information should be submitted to Texas Commission on the Arts, P.O. Box 13406, Capitol Station, Austin, Texas 78711.

§37.2 (353.04.01.002). Program Information. Applicants should review the Texas State Arts Plan for detailed program descriptions.

(1) Arts programs—organizations and activities.

(A)-(B) (No change.)

(C) General support. Organizations must meet the general eligibility requirements for commission funding. The commission may provide support to a limited number of organizations providing arts services to meet one or more of the seven purposes identified in the State Plan (see financial assistance section of the State Plan—organization support). Funding requests must be clearly identifiable with a quality arts product, although the product does not have to be a new or special project. General support funding is limited to \$10,000 per project. The following specific areas which are identified in the State Plan will also be funded through general support:

(i) (No change.)

(ii) Recognition awards. Eligible organizations may apply for an award on behalf of a Texas artist of merit to enable the artist to complete a significant work of art. Applicants should be aware that each advisory panel may recommend only one award per year and that the "matching requirement" for all awards also applies here. Awards in this category may not exceed \$5,000.

(iii) Organizational development support.

(I) Professional staff. Eligible organizations may request assistance for professional staff. Local arts councils and local city governments will be contacted by the commission during the review process to assure that projects funded will be beneficial to the community. Organizations receiving priority rating in this program include arts councils and existing professional organizations demonstrating need for personnel to provide assistance in resource development, management, product development, and/or need to insure organization stability, economic independence, artistic continuity. Awards will not exceed \$6,000 per application. The total salary must be at least \$12,000 but is not limited to that amount.

(II)-(IV) (No change.)

(iv)-(v) (No change.)

(2) (No change.)

(3) Touring programs. The purpose of the touring programs is to bring quality arts events to all communities within the state; encourage the cooperation between small communities to share arts activities; encourage interaction between residents, performers, and artists through residency activities; and showcase quality Texas artists inside and outside the state. Priorities in this area include in-state touring by Texas artists, in-state touring by non-Texas artists, and dance touring

(A) In-state touring by Texas artists.

(i)-(v) (No change.)

(vi) Deadlines. The deadline for all company proposals for the touring season is February 1 (major touring proposals must be submitted at the February 1 deadline one year in advance of the touring season). Determination of awards will be announced in May. For additional assistance in preparing touring proposals or becoming an exhibition sponsor, information may be obtained by contacting the Texas Commission on the Arts.

(B)-(C) (No change.)

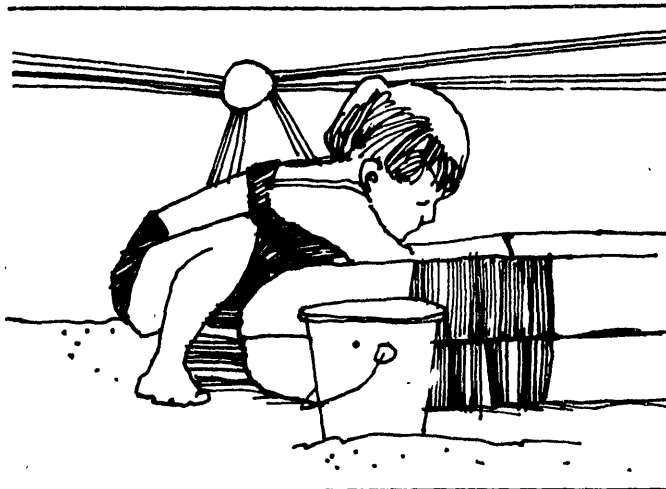
Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811611 Allan Longacre
Executive Director
Texas Commission on the Arts

Effective Date: April 1, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 475-6593.



TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Service

The Public Utility Commission of Texas has withdrawn from consideration for adoption proposed amendments to §23.32 (052.02.04.042) of this title (relating to Customer Relations), §23.34 (052.02.04.044) of this title (relating to Discontinuance of Service), and §23.36 (052.02.04.046) of this title (relating to Billing). The text of the amended sections as proposed was published in the September 19, 1980, issue of the *Texas Register* (5 TexReg 3783).

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811632 Philip F. Ricketts
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 12, 1981, 2:19 p.m.

For further information, please call (512) 458-0100.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 313. Financial Programs

Policy Declarations

The Texas Water Development Board adopts the repeal of §§313.31-313.33 (156.09.10.001-.003) of this title (relating to Policy Declarations) because the same requirements will be re-enacted elsewhere in the board's rules. The proposed repeal was published in the November 18, 1980, issue of the *Texas Register* (5 TexReg 4645).

This repeal is adopted pursuant to the authority of Texas Water Code, §5.131 and §5.132.

Issued in Austin, Texas, on March 13, 1981.

Doc. No. 811695 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Effective Date: April 24, 1981

Proposal Publication Date: November 18, 1980

For further information, please call (512) 475-7836.

Initiating Action under the Loan Assistance, Water Facilities Acquisition, and Water Quality Enhancement Programs

The Texas Water Development Board adopts the repeal of §§313.41-313.43 (156.09.15.001-.003) of this title (relating to Initiating Action under the Loan Assistance, Water Facilities Acquisition, and Water Quality Enhancement Programs) because the sections were either superfluous, existing

elsewhere, or to be adopted elsewhere. The proposed repeal was published in the November 18, 1980, issue of the *Texas Register* (5 TexReg 4646).

This repeal is adopted pursuant to the authority of Texas Water Code, §5.131 and §5.132.

Issued in Austin, Texas, on March 13, 1981.

Doc. No. 811696 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Effective Date: April 24, 1981
Proposal Publication Date November 18, 1980
For further information, please call (512) 475-7836.

Chapter 353. Water Quality Permits

General Provisions and Definitions

The Texas Department of Water Resources has withdrawn from consideration for adoption Texas Water Development Board §§353.1-353.4 (156.27.01.001-.004). The text of the new sections as proposed was published in the June 8, 1979, issue of the *Texas Register* (4 TexReg 2064).

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811697 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: March 16, 1981, 9:05 a.m.
For further information, please call (512) 475-7836.

Application for a Waste Discharge Permit

The Texas Department of Water Resources has withdrawn from consideration for adoption Texas Water Development Board §§353.61-353.76 (156.27.05.001-.016). The text of the new sections as proposed was published in the June 8, 1979, issue of the *Texas Register* (4 TexReg 2065).

Issued in Austin, Texas, on March 16, 1979.

Doc. No. 811698 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: March 16, 1981, 9:03 a.m.
For further information, please call (512) 475-7836.

Permit Issuance

The Texas Department of Water Resources has withdrawn from consideration for adoption Texas Water Development Board §§353.81-353.86 (156.27.10.001-.006) of this title (relating to Public Notice, Public Comments and Hearings, Draft Permit, Other Draft Permits, Fact Sheet, and Commission File). The text of the new sections as proposed was published in the June 8, 1979, issue of the *Texas Register* (4 TexReg 2067).

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811699 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: March 16, 1981, 9:03 a.m.
For further information, please call (512) 475-7836.

Waste Discharge Permit

The Texas Department of Water Resources has withdrawn from consideration for adoption Texas Water Development Board §§353.101-353.108 (156.27.15.001-.008) of this title (relating to Contents of Waste Discharge Permit, General Effect, Duration and Transferability of Permits, Permit Issuance Prohibitions, Conditions Applicable to All Permits, Applicable Limitations, Standards, Prohibitions, and Conditions, Calculation and Specification of Effluent Limitations and Standards, and Schedules of Compliance). The text of the new sections as proposed was published in the June 8, 1979, issue of the *Texas Register* (4 TexReg 2069).

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811700 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: March 16, 1981, 9:03 a.m.
For further information, please call (512) 475-7836.

Permit Revision and Reissuance

The Texas Department of Water Resources has withdrawn from consideration for adoption Texas Water Development Board §§353.121-353.128 (156.27.20.001-.008) of this title (relating to Amendment and Revocation—General, Revocation or Suspension with Consent, Amendment with Consent, Revocation or Suspension without Consent, Amendment without Consent, Extension of Time To Comply with Revocation, Suspension, or New Conditions, Permit Corrections, and Permit Renewal). The text of the new sections as proposed was published in the June 8, 1979, issue of the *Texas Register* (4 TexReg 2075).

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811701 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: March 16, 1981, 9:03 a.m.
For further information, please call (512) 475-7836.

Permit Compliance

The Texas Department of Water Resources has withdrawn from consideration for adoption Texas Water Development Board §§353.131-353.134 (156.27.25.001-.004) of this title (relating to Monitoring, Recording of Monitoring Results, Reporting of Monitoring Results and Compliance by Permittees, and Table 1—Domestic Waste Water Effluent and Table 2—Nondomestic Waste Water Effluent). The text of the new sections as proposed was published in the June 8, 1979, issue of the *Texas Register* (4 TexReg 2077).

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811702 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: March 16, 1981, 9:05 a.m.
For further information, please call (512) 475-7836.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. Sales Tax Division—State Taxes

Under the authority of Texas Taxation—General, (Vernon 1969), Article 20.11(A), the Comptroller of Public Accounts adopts the following amendments to §3.345 (026.02.20.065).

§3.345 (026.02.20.065). *Solar Energy Devices.*

(a) (No change.)

(b) Definition. A "solar energy device" is that portion of a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power or both by means of collecting and transferring solar-generated energy and includes mechanical devices having the capacity for storing solar-generated energy for use in heating or cooling or in the production of power. This definition of "solar energy device" includes the following:

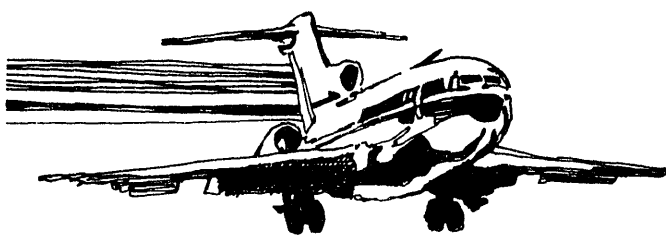
(1)-(6) (No change.)

(c)-(f) (No change.)

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811677 Bob Bullock
Comptroller of Public Accounts

Effective Date: April 6, 1981
Proposal Publication Date: February 10, 1981
For further information, please call (512) 475-6872.



Part III. Teacher Retirement System of Texas

Chapter 23. Administrative Procedures

The Teacher Retirement System of Texas adopts amendments to §23.5 (334.02.00.005) concerning nominations to the board of trustees. A change in the law made by the 66th Legislature provides that there be two public school district members, one institution of higher education member, and one retiree member on the board of trustees. The amendments to the section implement that change in the law. The section changes provide who may sign a petition and set out the positions as they are created by the Texas Education Code, §3.59(d). Some minor style changes are made. No other substantive changes are made in the section.

The following amendments are adopted under authority of the Texas Education Code, §3.59(d) and (i).

§23.5 (334.02.00.005). *Nominations for Appointment to the State Board of Trustees.*

(a) During any calendar year in which the term of office of a public school district member, institution of higher education member, or retired teacher member expires, the Teacher Retirement System of Texas will conduct an election between September 1 and October 15 to select the nominees to be considered by the governor for appointment to the position.

(b) Public school district members of the system who are currently employed by a public school district may have their names listed on the official ballot as candidates for nomination to a public school district position by filing an official petition bearing the signature, printed or typed name, and social security number of 500 members of the retirement system whose most recent credited service is or was performed for a public school district. Institution of higher education members of the system who are currently employed by an institution of higher education may have their names listed on the official ballot as candidates for nomination to the institution of higher education position by filing an official petition bearing the signature, printed or typed name, and social security number of 500 members whose most recent credited service is or was performed for an institution of higher education. Retired teachers may have their names listed on the official ballot as candidates for nomination to the retired teacher position by filing an official petition bearing the signature, printed or typed name, and social security number of at least 100 retirees of the system. Official petition forms shall be available from the Teacher Retirement System of Texas, 1001 Trinity, Austin, Texas 78701. Official petitions must be filed by July 1 of the calendar year in which the election is to be held. A qualified public school district member, institution of higher education member, or retiree may sign more than one candidate's petition as long as they are eligible to vote in the election of the candidate or candidates for whom they are signing.

(c) (No change.)

(d) When a vacancy of a public school district member, institution of higher education member, or retired member occurs for a reason other than the expiration of a term of office, the board of trustees may conduct an election at any time they determine appropriate. The board of trustees shall establish deadlines for filing petitions, the date of mailing ballots, the date for returning ballots, and any other necessary details related to the election process.

(e) When more than one public school district member position on the board of trustees is being contested at the same election, each candidate shall specify on his or her petition which position he or she is seeking by indicating expiration date of the term of office sought. Petitions which fail to specify shall be returned to the candidates for completion if time permits. Failure to designate a specific position by the deadline shall disqualify the candidate. When more than one position is contested at the same election, a person may be a candidate for only one of the positions.

Issued in Austin, Texas, on March 13, 1981.

Doc. No. 811671 Bruce Hineman
Executive Secretary
Teacher Retirement System of Texas

Effective Date: April 3, 1981
Proposal Publication Date: February 6, 1981
For further information, please call (512) 477-9711, ext 213.

NONCODIFIED

Governor's Committee on Aging Hearing Procedures

General Hearing Provisions 348.10.01

The Governor's Committee on Aging adopts Rules 348.10.01.001-.003, which establish procedures for hearings pursuant to the federal regulations applicable to grants for state and community programs on aging. The Governor's Committee on Aging is required to provide an opportunity for a hearing to area agencies on aging, applicants for designation as planning and service areas, nutrition projects, and service providers when particular types of action have been taken or proposed.

As a result of comments received, Rule 348.10.01.002, as proposed, has been deleted in its entirety as being redundant of the rule incorporating the pertinent parts of the Administrative Procedure and Texas Register Act. In addition, the restriction imposed on representation of petitioner was unduly restrictive and contrary to law. All other changes were purely editorial and for clarity.

These rules are adopted under authority of the Human Resources Code, Chapter 101.

.001. Definitions.

(a) **Act**—is the Older Americans Act (42 United States Code, §3001 et seq.).

(b) **Area agency**—is the agency designated by committee in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

(c) **Area plan**—is the document submitted by an area agency to committee in order to receive grants or contracts from committee.

(d) **Board**—is the nine members appointed by the governor to direct the work of committee.

(e) **Chairman**—is the presiding officer of the board, appointed by the governor.

(f) **Commissioner**—is the commissioner on aging of the Administration on Aging, Office of Human Development Services, U.S. Department of Health and Human Services.

(g) **Committee**—is the Governor's Committee on Aging, the single state agency designated to develop and administer the State Plan and be the focal point on aging in the State of Texas.

(h) **Coordinator**—is the coordinator of aging, the chief executive and administrative officer of committee, appointed by the governor.

(i) **Grant**—is an award of financial assistance by the federal government or committee to an eligible recipient.

(j) **Hearing examiner**—is the impartial person selected by the coordinator to preside at the hearing and render a proposed final decision.

(k) **Party**—is the petitioner, the area agency, or committee which proposed or decided the action being appealed, and all interested persons added as parties under Rule 348.10.01.002.

(l) **Petitioner**—is any person who has a right to a hearing under these rules and has filed a written request for a hearing.

(m) **Person**—is an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

(n) **Planning and service area**—is a geographic area of a state that is designated by committee for purposes of planning, development, delivery, and overall administration of services under an area plan.

(o) **Service provider**—is an entity that is awarded a grant or contract from an area agency to provide services under the area plan.

(p) **State agency**—is the single state agency designated to develop and administer the State Plan and to be the focal point on aging in the state.

.002. Interested Persons.

(a) Persons other than petitioner and appellee shall have the right to be parties in proceedings instituted by a petitioner if the final decision could directly and adversely affect them or the class they represent.

(b) Persons wishing to participate as parties shall file with the committee and serve on all parties a petition within 15 days in advance of the hearing date. The petition shall concisely state the petitioner's interest in the proceeding, who will represent the petitioner, and the issues upon which petitioner intends to present evidence or argument. The committee shall grant the petition if it finds the petitioner has a legitimate interest and that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues.

.003. *Incorporation of Administrative Procedure and Texas Register Act.* There is hereby incorporated as a part of these rules the Administrative Procedure and Texas Register Act, as amended, Article 6252-13a, §§13-20.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811571 Chris Kyker
Coordinator of Aging
Governor's Committee on Aging

Effective Date: April 1, 1981

Proposal Publication Date: January 9, 1981

For further information, please call (512) 475-2717.

Hearing Procedures for Area Agencies 348.10.02

The Governor's Committee on Aging adopts Rules 348.10.02.001-.013, which establish procedures for hearings pursuant to the federal regulations applicable to grants for state and community programs on aging. The Governor's Committee on Aging is required to provide an opportunity for a hearing to area agencies on aging when particular types of action have been taken or are proposed.

As a result of comments received, Rule 348.10.02.010 was amended to more clearly define the parameters the committee or board must follow in reaching a final decision. Proposed Rule 348.10.02.007 was deleted and the rest of the rules were subsequently renumbered. Rule 348.10.02.013, as proposed, was redundant of the rule incorporating the Administrative Procedure and Texas Register Act and, therefore, was revised. All other changes were editorial in nature for purposes of clarity.

These rules are adopted under authority of the Human Resources Code, Chapter 101.

.001. Right to a Hearing. An area agency has a right to a hearing under these rules when committee proposes to:

- (1) disapprove an area plan or plan amendment; or
- (2) withdraw an area agency designation after a determination that:

- (A) the area agency does not meet the requirements set forth in 45 Code of Federal Regulations Part 1321;
- (B) the plan or plan amendment is not approved; or
- (C) there is substantial failure in the provisions or administration of an approved area plan to comply with any provision of 45 Code of Federal Regulations Part 1321.

.002. Notice of Proposed Action.

(a) The committee shall issue a written notice to the area agency and all other parties which shall include:

- (1) a statement of the proposed action;
 - (2) a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based;
 - (3) a reference to the particular sections of statutes, regulations, and rules involved; and
 - (4) a notice of the right to request a hearing.
- (b) Notice shall be sent by registered or certified mail, return receipt requested.

.003. Request for Hearing.

(a) A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

- (1) the dates of all relevant actions;
- (2) the names of individuals or organizations involved in the proposed action;
- (3) a specific statement of any section of the Act or rules or regulations believed to have been violated; and
- (4) a certified copy of the minutes or resolution in which the petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization.

(b) The request for hearing must be received by committee within 30 days following petitioner's receipt of the notice of the proposed action.

(c) The petitioner may submit written amendments to the request for hearing which must be received by committee not less than 10 days prior to the date set for the hearing.

(d) The committee may require that additional information as to the basis of the appeal be provided to committee at any time prior to the hearing.

.004. Notice of Hearing.

(a) Upon receipt of a request for hearing, the coordinator shall, within 10 days, set a date for the hearing.

(b) The committee shall issue a written notice to the petitioner and all other parties which shall include:

- (1) a statement of time, date, and location of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of statutes, regulations, and rules involved; and

(4) a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

(c) If the committee is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

(d) Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

.005. Hearing Examiner. The coordinator shall select an impartial hearing examiner to preside at the hearing. The hearing examiner may not be an employee of committee, and the hearing examiner may be but is not required to be an attorney at law. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by committee or petitioner.

.006. Rules of Evidence.

(a) In hearings under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record.

(b) Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

(c) If a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

(d) Either party may conduct cross-examinations required for a full and true disclosure of the facts.

(e) Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of committee's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of committee and its staff may be utilized in evaluating the evidence.

(f) Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may

ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

.007. Depositions and Discovery. The taking and use of depositions, the making of discovery, and the issuance of subpoenas shall be governed by the Administrative Procedure and Texas Register Act, Article 6252-13a.

.008. Hearing.

(a) Petitioner shall open and present its evidence to establish its position on the matters involved. Other parties shall follow and present their evidence; then committee shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's open presentation and committee's following presentation or that of others. Petitioner shall be given the opportunity to offer final argument but with no additional presentation of evidence.

(b) The hearing shall be completed within 120 days of the date the request for hearing was received by committee.

.009. Recording the Proceedings. The proceedings of the hearing shall be electronically recorded. Upon request of any party to the proceedings, a copy of such recording shall be made available to the requesting party at cost. In addition, any party to the proceedings may request the presence of a court reporter to record the proceedings. Selection and payment for the services of a reporter shall be borne by the requesting party. All costs of transcriptions of any recordings shall be at the expense of the requesting party. A transcription becomes official when certified by the hearing examiner.

.010. Final Decision.

(a) The hearing examiner shall draft and recommend to the board or a committee of at least three board members a proposed final decision based solely on the record which addresses all matters presented at the hearing. The proposed decision shall include findings of fact and matters of law, separately stated.

(b) If the board or committee thereof making the final decision has not heard the case or read the record, the decision, if adverse to the area agency, may not be made until a copy of the proposed decision is served on the area agency and an opportunity is afforded to the area agency adversely affected to file exceptions and present briefs to the board or committee thereof. The area agency may, within 10 days after the date of service of the proposed decision, file exceptions to the proposal for decision; and replies to such exceptions may be filed within 10 days after the date for filing of such exception. The area agency may waive compliance with this paragraph by written agreement.

(c) The board or its committee shall base its final decision solely on the record. The board or its committee shall not substitute its judgment for that of the area agency or committee. The board or its committee shall affirm the decision appealed from unless it is unlawful, arbitrary, or not supported by substantial evidence in the record.

(d) The board or its committee shall render a final decision within 60 days after the close of the hearing. The final decision must be in writing and each board member joining in the decision must sign it.

(e) The coordinator shall send a copy of the final decision to all parties by registered or certified mail, return receipt requested, within three days after it is rendered.

(f) Procedures for rehearing and appeal shall be governed by Texas Civil Statutes, Article 6252-13a, Administrative Procedure and Texas Register Act.

.011. (Reserved for Future Expansion.)

.012. Incorporation of the Administrative Procedure and Texas Register Act. There is hereby incorporated as a part of these rules the Administrative Procedure and Texas Register Act, Article 6252-13a, §§13-20.

.013. Record. The record in a hearing under these sections consists exclusively of:

- (1) a copy of the committee's notice of proposed action that generated the appeal;
- (2) the request for hearing;
- (3) the notice of hearing;
- (4) all pleadings, motions, and intermediate rulings;
- (5) evidence received or considered;
- (6) a statement of matters officially noticed;
- (7) questions and offers of proof, objections and rulings on them;
- (8) findings of fact proposed by a party and exceptions;
- (9) any decision, opinion, or report by the hearing examiner presiding at the hearing;
- (10) all staff memoranda or data submitted to or considered by the hearing examiner;
- (11) the recording and transcription, if any, of the proceedings;
- (12) the hearing examiner's proposed final decision and any exceptions to it;
- (13) the final decision and the motion for rehearing, if any, and any replies to it;
- (14) the motion for rehearing, if any, and any replies to it.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811572 Chris Kyker
Coordinator of Aging
Governor's Committee on Aging

Effective Date, April 1, 1981

Proposal Publication Date, January 9, 1981

For further information, please call (512) 475-2717.

Hearing Procedures for Applicants for Planning and Service Area Designation 348.10.03

The Governor's Committee on Aging adopts Rules 348.10.03.001-.006, which establish procedures for hearings pursuant to 45 Code of Federal Regulations §1321.53 when any applicant for designation as a planning and service area is denied by the Governor's Committee on Aging. An applicant has a right to a hearing to appeal such denial.

As a result of comments on the proposed rules, Rule 348.10.03.005 was rewritten to reflect that the hearing would be conducted under Rules 348.10.02.006-.013, thereby eliminating redundancy and repetition of Rule 348.10.03.005-.009. Also, since the committee would be a contestant in this type hearing, Rule 348.10.03.004 was rewritten to reflect that the hearing examiner could not be an employee of the committee.

These rules are adopted under authority of the Human Resources Code, Chapter 101.

.001. Right to a Hearing. Any applicant for designation as a planning and service area pursuant to 45 Code of Federal Regulations §1321.53 whose application is denied by committee has a right to a hearing to appeal such denial.

.002. Request for Hearing.

(a) A request for hearing must be in writing and must state with specificity the grounds upon which committee's decision is appealed and all grounds upon which petitioner refutes the basis of committee's decision. The request must include:

- (1) the dates of all relevant actions;
- (2) the names of individuals or organizations involved in the action;
- (3) a specific statement of any section of the Act or regulations believed to have been violated; and
- (4) a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization.

(b) The request for hearing must be filed with the committee within 30 days following petitioner's receipt of the notice of committee's decision.

(c) The petitioner may submit written amendments to the request for hearing which must be received by the committee not less than 10 days prior to the hearing.

(d) The committee may require that additional information as to the basis for appeal be provided to the committee at any time prior to the hearing.

.003. Notice of Hearing

(a) Upon receipt of a request for hearing, the coordinator shall, within 10 days, set a date for the hearing.

(b) The committee shall issue a written notice to the petitioner, which shall include:

- (1) a statement of time, date, location, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular section of statutes, regulations, and rules involved; and
- (4) a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

(c) If the committee is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

(d) Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

.004. Hearing Examiner. The coordinator shall select an impartial hearing examiner to preside at the hearing. The hearing examiner may not be an employee of committee, and the hearing examiner may be but is not required to be an attorney at law. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the com-

plaint and to draft a fair proposed decision based on such information.

.005. Conduct of Hearing. The proceedings and conduct of the hearing shall follow the same rules as outlined in Rules 348.10.02.006-.013 of these rules.

.006. Appeal to the Commissioner. Any petitioner whose appeal is denied by the committee may appeal to the commissioner on aging. Administration on Aging. Such appeal shall be governed by the procedures outlined in 45 Code of Federal Regulations §1321.55.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811573 Chris Kyker
Coordinator of Aging
Governor's Committee on Aging

Effective Date: April 1, 1981

Proposal Publication Date: January 9, 1981

For further information, please call (512) 475-2717.

Hearing Procedures for Nutrition Projects 348.10.04

The Governor's Committee on Aging adopts Rules 348.10.04.001-.006, which establish procedures for hearings pursuant to 45 Code of Federal Regulations §1321.51 and §1321.143 when any nutrition project that was receiving funds under the former Title VII, Older Americans Act of 1965, as amended (42 United States Code 3001 et seq.), is proposed for defunding by an area agency. The project has a right to a hearing when defunding is proposed.

Rule 348.10.04.006 has been rewritten to reflect that the hearing would be conducted in accordance with Rules 348.10.02.006-.013, thereby eliminating Rules 348.10.02.006-.012 as being repetitious, redundant, and unnecessary.

These rules are adopted under authority of the Human Resources Code, Chapter 101.

.001. Right to a Hearing. A nutrition project that was receiving funds under the former Title VII of the Act on September 30, 1978, has right to a hearing under these rules when an area agency proposes to defund it.

.002. Notice of Proposed Action.

(a) The area agency shall issue a written notice to the nutrition project which shall include:

- (1) a statement of the proposed action;
- (2) a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based;
- (3) a reference to the particular sections of statutes, regulations, and rules involved; and
- (4) a notice of the right to request a hearing.

(b) Notice shall be sent by registered or certified mail, return receipt requested.

(c) The area agency shall submit a copy of such notice to the committee when such notice is issued to the nutrition project.

.003. Request for Hearing.

(a) A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

- (1) the dates of all relevant actions;
- (2) the names of individuals or organizations involved in the proposed action;
- (3) a specific statement of any section of the Act or regulations believed to have been violated; and
- (4) a certified copy of the minutes or resolution in which the petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization.

The request for hearing must be filed with the committee within 30 days following petitioner's receipt of the notice of the proposed action.

(b) The petitioner may submit written amendments to the request for hearing which must be received by committee not less than 10 days prior to the date set for the hearing.

(c) The committee may require that additional information as to the basis of the appeal be provided to committee at any time prior to the hearing.

(d) The petitioner shall submit a copy of the request for hearing, amendments, and additional information to the area agency when such information is submitted to committee.

.004. Notice of Hearing.

(a) Upon receipt of a request for hearing, the coordinator shall, within 10 days, set a date for the hearing.

(b) The committee shall issue a written notice to the petitioner, area agency, and interested persons which shall include:

- (1) a statement of time, date, and location of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of statutes, regulations, and rules involved; and
- (4) a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

(c) Petitioner and area agency shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

.005. Hearing Examiner. The coordinator shall select an impartial hearing examiner to preside at the hearing. The hearing examiner may be but is not required to be an employee of committee, and the hearing examiner may be but is not required to be an attorney at law. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by area agency or petitioner.

.006. Conduct of Hearing. The proceedings and hearing shall be conducted in accordance with the rules outlined in Rules 348.10.02.006-.013 of these rules.

Issued in Austin, Texas, on March 10, 1981.

Doc. No. 811574

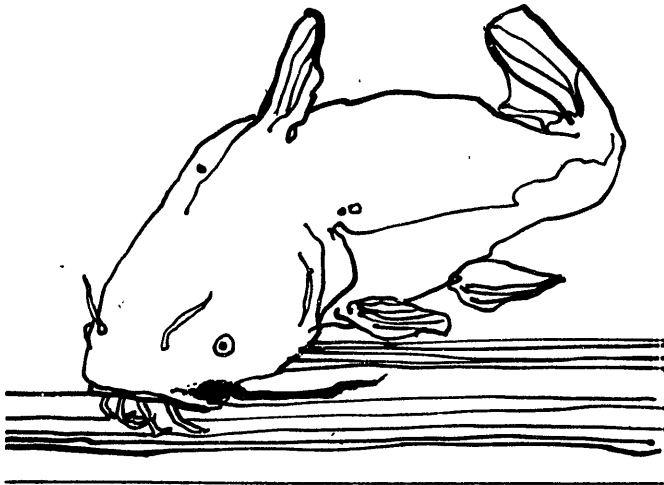
Chris Kyker
Coordinator of Aging
Governor's Committee on Aging

Effective Date: April 1, 1981

Proposal Publication Date: January 9, 1981

For further information, please call (512) 475-2717.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.



Texas Animal Health Commission

Friday, March 20, 1981, 9 a.m. The Texas Animal Health Commission makes an emergency addition to the agenda of a meeting to be held in Room 118 of the Stephen F. Austin Building, Austin. The emergency addition concerns the extension of emergency regulation for poultry disease (laryngotracheitis) for an additional 60 days' time. The emergency status is necessary because the poultry commissioner requested this item be included on the agenda, after the time the original agenda was filed for the March 20, 1981, meeting because the emergency regulation will expire prior to the time of the next anticipated commission meeting.

Information may be obtained from Jo Anne Conner, Sam Houston Building, Austin, Texas, (512) 475-4111.

Filed: March 13, 1981, 12:12 p.m.
Doc. No. 811664

Credit Union Department

Friday, March 20, 1981, 10 a.m. The Credit Union Commission of the Credit Union Department will meet at 914 East Anderson Lane, Austin. According to the agenda, the commission will consider the impact of House Bill 1228 and Senate Bill 628 on credit unions and the need for regulation/rule relating to subsidiary corporations.

Information may be obtained from Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236.

Filed: March 12, 1981, 1:56 p.m.
Doc. No. 811628

Finance Commission of Texas

Wednesday, March 25, 1981, 9:30 a.m. The Banking Section of the Finance Commission of Texas will meet at 2601 North Lamar, Austin. According to the agenda, the section will consider the adoption of the final rule on real estate mortgages, and meet in executive session to discuss personnel matters.

Information may be obtained from Archie P. Clayton III, 2601 North Lamar, Austin, Texas, (512) 475-4451.

Filed: March 13, 1981, 3:26 p.m.
Doc. No. 811672

Texas Department of Health

Saturday, March 21, 1981, 9:30 a.m. The Texas Department of Health will meet in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the board will discuss the following items: minutes of the February 22, 1981, meeting; commissioner's report; progress report on management by objectives; updates on the activities of the following—Technical Advisory Committee to the Cancer Control Program, Bureau of Vital Statistics, and Texas Advisory Certification Committee for water works operators and sewage works operators; update on the data collection rules and the Health Data Cooperative; and the proposed amendment to the formal hearing procedures. The department will also meet in executive session, then consider the following: crippled children's physician applications; Budget Committee report on transfer of unexpended balances from the Bureau of Tuberculosis Services to the State Chest Hospitals; Legislative Committee report on legislation concerning licensing of radiologic technologists and a Dental Laboratory Advisory Board; and set meeting date for April, 1981.

Information may be obtained from Joe Klinger, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 13, 1981, 4:08 p.m.
Doc. No. 811673

Texas Health Facilities Commission

Thursday, March 26, 1981, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

Certificate of Need

Clirjica del Pueblo, Kingsville

AC80-0813-003

Quality Care of Corpus Christi, Corpus Christi

AN80-0923-019

St. Anthony's Hospital, Amarillo

AH80-1117-038

R. E. Thomason General Hospital, El Paso

AH80-1103-051

Midland Memorial Hospital, Midland

AH80-1201-047

AH80-1020-004

Baylor University Medical Center, Dallas

AH80-1119-037

Bexar County Hospital, San Antonio

AH80-0327-003

The United Neighborhoods Organization Health

Screening Clinic, Carrizo Springs

AO80-0909-007

Hood General Hospital, Granbury

AH80-1006-022

The Good Shepherd Hospital, Longview

AH80-1106-020

Amendment of Certificate of Need

The Methodist Hospital, Houston

AH76 1221-004A (122280)

Exemption Certificates

Angelo Community Hospital, San Angelo

AH81-0202-010

Kemp Care Center, Inc., Kemp

AN81-0116-012

Navarro County Memorial Hospital, Corsicana

AH81-0126-056

Bellaire General Hospital, Houston

AH81-0126-052

Nacogdoches Medical Center, Nacogdoches

AH81-0202-021

Clear Lake Hospital, Inc., Webster

AH81-0202-001

Memorial Hospital of Garland, Garland

AH81-0205-003

Tidelands General Hospital, Channelview

AH81-0130-013

Information may be obtained from Linda E. Zatopek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: March 17, 1981, 9:35 a.m.

Doc. No. 811763

University of Houston

Monday, March 16, 1981, 9:30 a.m. The Building Committee of the University of Houston Board of Regents held an emergency meeting in Room 510 of the Houston United Bank Building, 4600 Gulf Freeway, Houston, to consider the lease of office space, and to meet in executive session. The emergency meeting was necessary because the offer of lease space was not made until March 13, 1981.

Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas, (713) 749-7545.

Filed: March 13, 1981, 4:47 p.m.

Doc. No. 811674

Texas Department of Human Resources

Tuesday, April 7, 1981, 9:30 a.m. The Texas Council of Child Welfare Boards of the Texas Department of Human Resources will meet in Room 2L1, 706 Banister Lane, Austin. According to the agenda, the council will meet in an Executive Committee meeting from 8:30 a.m. to 9:30 a.m. The council will also consider the following items: Executive Committee report; legislative report; protective services worker turnover study; and regional reports.

Information may be obtained from James C. Marquart, 1708 East Anderson, Austin, Texas, (512) 835-0440, ext. 2222.

Filed: March 16, 1981, 4:11 p.m.

Doc. No. 811722

State Board of Insurance

Thursday, March 19, 1981, 10 a.m. The State Board of Insurance made an emergency addition to the agenda of a meeting held in Room 408, 1110 San Jacinto, Austin. The addition concerned a request by Will Davis for amendment to Board Order 8201. The emergency addition was necessary in order to discuss this in conjunction with previous request for amendment to Board Order 8201.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: March 13, 1981, 2:18 p.m.

Doc. No. 811668

Tuesday, March 24, 1981, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6626—application of Western Preferred Corporation, Denver, Colorado, to acquire control of Commercial Standard Insurance Company, Fort Worth.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: March 16, 1981, 2 p.m.

Doc. No. 811710

Wednesday, March 25, 1981, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6312—disciplinary action for failure to furnish audit report within time required for Mission Title Company.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 16, 1981, 2 p.m.

Doc. No. 811711

Wednesday, March 25, 1981, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance is rescheduling a public hearing to be held in Room 342, 1110 San Jacinto, Austin, in Docket 6285—application for original charter by International Indemnity Company of Texas, Houston.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: March 16, 1981, 2 p.m.
Doc. No. 811712

Thursday, March 26, 1981, 2 p.m. The State Board of Insurance makes an addition to the agenda of a meeting to be held in Room 408, 1110 San Jacinto, Austin. The addition concerns the mechanical service agreement endorsement filed by American Fidelity Insurance Company.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: March 13, 1981, 2:18 p.m.
Doc. No. 811689

Thursday, March 26, 1981, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6332—application for certificate of authority by ABC Lif Insurance Company, Waco.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: March 16, 1981, 2:01 p.m.
Doc. No. 811713

Friday, March 27, 1981, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6327—revocation of insurance licenses to Bertha Gibson.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: March 16, 1981, 2:01 p.m.
Doc. No. 811714

Tuesday, March 31, 1981, 10 a.m. The State Board of Insurance is rescheduling a meeting to be held in Room 408, 1110 San Jacinto, Austin. According to the agenda, the board will consider the mechanical service agreement endorsement filed by American Fidelity Insurance Company. The meeting was originally scheduled for March 26, 1981, at 2 p.m.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: March 16, 1981, 2:08 p.m.
Doc. No. 811720

Lamar University

Thursday, March 19, 1981, 9:30 a.m. The Lamar University Board of Regents met in the board room of the Plummer Administration Building, main campus, Lamar University, Beaumont. According to the agenda summary, the board considered the following items: approval of January 22, 1981, minutes; president's reports; small class report; revision in promotion criteria for faculty; building projects and bids; authorization of Executive Committee to approve regent's professors for 1981; revisions of room and board fees and Setzer Center fees; policy for regents' development funds; tenure and promotion recommendations; monthly fi-

nancial reports for September 1980 through January 1981 and revision of Setzer Center petty cash fund; authorization of executive officers in the sale of stock, etc. the board also met in executive session.

Information may be obtained from Andrew J. Johnson, P.O. Box 10014, Lamar University Station, Beaumont, Texas 77710, (713) 838-7533.

Filed: March 13, 1981, 9:22 a.m.
Doc. No. 811642

Board of Pardons and Paroles

Monday-Friday, March 30-April 3, 1981, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: March 17, 1981, 7:55 a.m.
Doc. No. 811758

State Pension Review Board

Monday, March 30, 1981, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet in Room G35B of the State Capitol. According to the agenda, the committee will meet in a regularly scheduled weekly work session to discuss upcoming legislation.

Information may be obtained from Lynda Baker, 105 West 15th Street, Reagan Building, Room 200, Austin, Texas, (512) 475-8332.

Filed: March 17, 1981, 9:04 a.m.
Doc. No. 811760

State Board of Pharmacy

Tuesday, March 24, 1981, 10:30 a.m.-5 p.m. The State Board of Pharmacy will meet in Suite 1221 of the Southwest Tower, 211 East 7th Street, Austin. According to the agenda, the board will discuss the following items: status of Oklahoma reciprocity; litigations; legislation; compliance program; and old and new business. The board will also meet in executive session to discuss personnel matters.

Information may be obtained from Priscilla Jarvis, 211 East 7th Street, Southwest Tower, Suite 1221, Austin, Texas 78701, (512) 478-9827.

Filed: March 13, 1981, 2:18 p.m.
Doc. No. 811670

State Property Tax Board

Tuesday, March 31, 1981, 10 a.m. The State Property Tax Board will meet in the agency conference room, 9501 IH 35 North, Austin. According to the agenda, the board will consider the following items: tax record requirement rules as amended; rules on minimum standards for Appraisal Board operations for future board consideration; approval of select sections of the General Appraisal Manual; report on fiscal matters; and report on legislative update. The board will also meet in executive session to discuss personnel matters.

Information may be obtained from Kenneth E. Graeber, 9501 IH 35 North, Austin, Texas, (512) 837-8622.

Filed: March 16, 1981, 4:10 p.m.
Doc. No. 811721

Public Utility Commission of Texas

Friday, March 20, 1981, 1:15 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3728—application of Southwestern Water Corporation for authority to increase rates within Travis and Williamson Counties.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: March 12, 1981, 3:03 p.m.
Doc. No. 811636

Monday, March 23, 1981. The Hearings Division of the Public Utility Commission of Texas will conduct prehearing conferences in Suite 450N, 7800 Shoal Creek Boulevard, Austin, at 9 a.m. and 9:30 a.m., respectively in the following dockets:

9 a.m. Docket 3764—application of Jasper-Newton Electric Cooperative, Inc., for a rate increase.

9:30 a.m. Docket 3780—application of Texas Power and Light Company for authority to increase rates.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: March 12, 1981, 3:03 p.m.
Doc. Nos. 811637 and 811638

Thursday, April 2, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing on the merits of Docket 3681—application of Central Power and Light Company to amend its certificate of convenience and necessity within Maverick County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: March 12, 1981, 2:19 p.m.
Doc. No. 811629

Wednesday, May 20, 1981, 9:30 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing on the merits of Docket 3728—application of Southwestern Water Corporation for authority to increase rates within Travis and Williamson Counties.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: March 12, 1981, 3:04 p.m.
Doc. No. 811639

Railroad Commission of Texas

Monday, March 16, 1981, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 IH 35 South, Austin. The addition concerned Gas Utilities Docket 2921—statement of intent filed by Lone Star Gas Company to change residential and commercial rates in the environs of the City of Blossom. Consideration of this matter on less than seven days' notice was required as a matter of urgent public necessity because the rates would have gone into effect by operation of law before the next scheduled commission meeting.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas, (512) 445-1126.

Filed: March 13, 1981, 11:49 a.m.
Doc. No. 811652

Monday, March 16, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held at 1124 IH 35 South, Austin. The addition concerned a request by Warren Petroleum Company to consider the plugging and abandonment of an unidentified well located in Barbers Hill Field, Chambers County. Consideration on less than seven days' notice was required as a matter of urgent public necessity to protect the general welfare of the residents in that area.

Information may be obtained from Phillip R. Russell, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1301.

Filed: March 13, 1981, 1:53 p.m.
Doc. No. 811665

Monday, March 16, 1981, 9 a.m. The Transportation Division of the Railroad Commission of Texas made emergency additions to the agenda of a meeting held at 1124 IH 35 South, Austin. The additions concerned the following applications:

Docket 024422ZZT—Oil Field Haulers Association, Item 19 Series, OFHA Tariff 6-W, Part 1, concerning increase charge based on addition 4.55 cents per running mile, and Part 2, concerning increase percentage factor by 3.0%;

Docket 003419ZZAD—Louisiana and Arkansas Railway application for discontinuance of its agency in Winnsboro.

These matters were properly noticed for consideration by the commission in open meeting on March 9, 1981, were passed at such meeting, and were considered on less than seven days' notice as a matter of urgent public necessity.

Information may be obtained from Owen T. Kinney, 1124 South IH 35, Austin, Texas 78704, (512) 445-1330.

Filed: March 13, 1981, 11:49 a.m.
Doc. Nos. 811653 and 811654

Monday, March 23, 1981, 9 a.m. The Railroad Commission of Texas will meet in the third floor conference room, 1124 IH 35 South, Austin. Following the regular agenda, the commission will go into executive session to discuss personnel actions for all divisions and consult with its legal staff on prospective and pending litigation pursuant to §§2g and 2e of the Act, respectively.

Information may be obtained from Carla S. Doyne, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: March 13, 1981, 11:45 a.m.
Doc. No. 811655

Monday, March 23, 1981, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 IH 35 South, Austin. According to the agenda summary, the division will consider Gas Utilities Dockets 2943, 2944, 2945, 2946, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 2956, 2957, 2959, 2960, 2961, 2802, and the director's report.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1126.

Filed: March 13, 1981, 11:47 a.m.
Doc. No. 811656

Monday, March 23, 1981, 9 a.m. The Liquefied-Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division will consider the director's report.

Information may be obtained from Guy G. Mathews, P.O. Drawer, 12967, Austin, Texas, (512) 445-1301.

Filed: March 13, 1981, 11:47 p.m.
Doc. No. 811657

Monday, March 23, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: March 13, 1981, 11:47 a.m.
Doc. No. 811658

Monday, March 23, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes additions to the agenda of a meeting to be held in the first floor auditorium, 1124 IH 35 South, Austin. The additions concern the following:

category determinations under Natural Gas Policy Act of 1978, §§102 (c)(1)(B), 102(c)(1)(C), 103, 107, and 108;
Docket 3-76459—application of CRB Oil and Gas Inc., for temporary gas classification extension, Giddings (Austin Chalk) Field, Burleson County.

Information may be obtained from Bob R. Harris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: March 13, 1981, 11:48 a.m.
Doc. Nos. 811659 and 811660

Monday, March 23, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held at 1124 IH 35 South, Austin. The addition concerns a request to Environmental Protection Agency for extension of time for submittal of the Railroad Commission's Underground Injection Control Program application under the Federal Safe Drinking Water Act.

Information may be obtained from Jerry W. Mullican, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1373.

Filed: March 13, 1981, 11:46 a.m.
Doc. No. 811661

Monday, March 23, 1981, 9 a.m. The Transportation Division of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Information may be obtained from Owen T. Kinney, P.O. Drawer, 12967, Austin, Texas 78711, (512) 445-1330.

Filed: March 13, 1981, 11:46 a.m.
Doc. No. 811662

Monday, March 30, 1981, 4 p.m. The Transportation Division of the Railroad Commission of Texas is rescheduling a meeting to be held at 1124 IH 35 South, Austin. According to the agenda, the division will consider an oral argument in the application of Rea Ball, Dockets 002002A5S and 003396ZZP. The meeting was originally scheduled for March 12, 1981, at 4 p.m.

Information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1330.

Filed: March 13, 1981, 11:46 a.m.
Doc. No. 811663

State Securities Board

Friday, March 20, 1981, 9 a.m. The State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the board will consider four rules for adoption regarding excessive options and warrants, loans to officers and directors, method of payment of \$100,000 required by Rule 065.05.00.009(11) and the sale of securities made exclusively to nonresidents of Texas. The board will also consider proposals for amendments to the real estate guidelines and the time period for filing for issuers who rely on Rule 065.05.00.009 who are not registered in Texas.

Information may be obtained from Richard Latham, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

Filed: March 12, 1981, 11:55 a.m.
Doc. No. 811627

Texas Surplus Property Agency

Friday, March 27, 1981, 10 a.m. The Governing Board of the Texas Surplus Property Agency will meet in the State Budget and Planning Office, seventh floor of the Sam Houston Building, Austin. According to the agenda, the board will consider the following items: approval of the minutes of the last board meeting held on December 17, 1980; midyear budget revision; acquisition of a minicomputer; priority of agency capital expenditures; and executive director's report

Information may be obtained from Robert A. Davis, Jr., Box 8120, Wainwright Station, San Antonio, Texas 78208, (512) 661-2381

Filed March 16, 1981, 10:10 a.m.
Doc No 811719

Texas State Technical Institute

Sunday and Monday, March 22 and 23, 1981, 2 p.m. and 9 a.m., respectively. The Texas State Technical Institute Board of Regents will meet at the Texas State Technical Institute in Waco. According to the agenda summary, the board will consider the following items: approval of minutes of February 2, 1981, meeting; revision to policy on request for leaves of absence, policy on hiring of persons with a criminal record, policy for qualifying employees enrolled in optional retirement program for disability benefits; acceptance of modification of Building 1400 at Texas State Technical Institute in Amarillo; acceptance of modification of Building 3400 at Texas State Institute in Amarillo; and acquisition from the City of Harlingen at Texas State Technical Institute in Harlingen; authorization to make final payment for modifications to Building 1-5 at Texas State Technical Institute in Waco; request for budget changes; family housing and single student rental rates effective September 1, 1981; demolition and removal of remaining portion of Building 8400 at Texas State Technical Institute in Amarillo; classes meeting with less than 10 students; president's report and recommendations; and other business.

Information may be obtained from Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, (817) 799-3611, ext. 385.

Filed: March 16, 1981, 2:07 p.m.
Doc. No. 811718

Texas Water Commission

Friday, March 13, 1981, 3 p.m. The Texas Water Commission held an emergency meeting in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary the commission considered a request by Champlin Petrochemicals, Inc., Soltex Petrochemicals, Inc., and ICI Petrochemicals, Inc., doing business as Corpus Christi Petrochemical Company (CCPC), for a temporary order which would authorize CCPC to discharge on an emergency basis. Nueces County, Corpus Christi inner harbor, Segment 2484 of Nueces estuary. The request for the order arose from the fact that two holding ponds maintained by CCPC were near to capacity because of rainfall in the area and because the company wants to shut down a portion of the plant for repairs, which necessitates the release of additional water into the ponds.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 13, 1981, 11:29 a.m.
Doc. No. 811647

Monday, March 23, 1981, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the following items: applications for bond issues; use of surplus funds; conversion setting of hearing date; water quality permits; amendments and renewals; applications for final decision; cancellation of permits; dismissals of water quality permits; and filing and setting hearing dates.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 13, 1981, 11:30 a.m.
Doc. No. 811648

Tuesday, April 14, 1981, 10 a.m. The Texas Water Commission will meet in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct adjudication hearings on the Brazos-Colorado Coastal Basin.

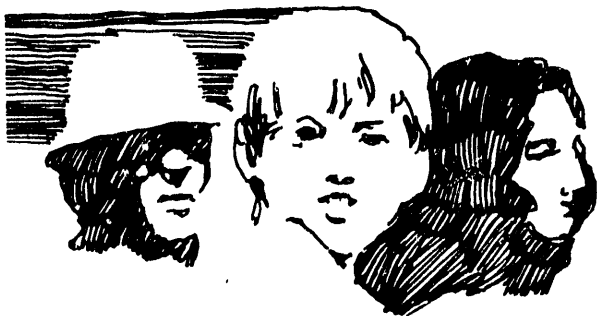
Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 16, 1981, 11:25 a.m.
Doc. No. 811723

Thursday, April 16, 1981, 10 a.m. The Texas Water Commission will meet at the Old Victoria County Courthouse, second floor courtroom, Victoria, to conduct the following hearings:

Formosa Plastics, Corporation, U.S.A., Point Comfort—application for a permit to discharge 1.4 million gallons per day of treated effluent from one outfall (001), plus a variable amount of uncontaminated rainfall runoff from two outfalls (002, 003), from a proposed vinyl chloride monomer and polyvinyl chloride resin manufacturing facility in Calhoun County.

IEC Corporation, Three Rivers—application for a permit to drill and operate an industrial waste disposal well to dispose of aquifer restoration waste water at the Pawnee



in-situ uranium mining project. The waste water will be from the mine zone only in Bee County.

Information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: March 13, 1981, 11:31 a.m.
Doc. Nos. 811649 and 811650

Friday, April 17, 1981, 10 a.m. The Texas Water Commission will meet in the council chamber, city hall, 300 East Shepherd, Lufkin, to conduct a hearing on an application by Borden Chemical, Division of Borden, Inc., Diboll, for an amendment to Permit 01726 to authorize a discharge of treated waste water effluent at an average rate of 50,000 gallons per day. The existing permit authorizes a discharge of 36,000 gallons per day from a synthetic resin (urea/formaldehyde) manufacturing facility in Angelina County.

Information may be obtained from Sandra Fitzpatrick, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

Filed: March 13, 1981, 11:30 a.m.
Doc. No. 811651

Wednesday, April 22, 1981, 10 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to conduct hearings on the following: dissolution of Anderson County Levee Improvement District 2, located in Anderson County; and dissolution of Dallas County Levee Improvement District 2, located in Dallas County.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 12, 1981, 2:52 p.m.
Doc. Nos. 811634 and 811635

Friday, April 24, 1981, 10 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to conduct a hearing on Application 4104 of Forbin Investments N.V. for a permit to maintain a 120 acre-foot reservoir on Mooring Slough, tributary of Sims Slough, tributary of Little Brazos River, tributary of Brazos River, Brazos River Basin, and also to divert 1200 acre-feet of water for irrigation purposes in Brazos County.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 16, 1981, 11:25 a.m.
Doc. No. 811724

Texas Water Development Board

Tuesday, March 17, 1981, 8:30 a.m. The Texas Water Development Board made an emergency addition to the agenda of a meeting held in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the addition concerned the authorization of the executive director to execute contracts with the Environmental Protection Agency for federal financial assistance for management of the Construction Grants Program for fiscal year 1980 and fiscal year 1981. The emergency status was necessary due to the fact that the board needed to

authorize the executive director to execute contracts with the Environmental Protection Agency in order to obligate federal monies for continued management of the delegated programs prior to expiration of authorization of such funds.

Information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas 78711, (512) 475-3187.

Filed: March 16, 1981, 11:24 a.m.
Doc. No. 811709

Texas Department of Water Resources

Tuesday, April 14, 1981, 9 a.m. The Office of General Counsel of the Texas Department of Water Resources will meet in Room 118 of the Stephen F. Austin Building, Austin. According to the agenda summary, the counsel will conduct a public meeting to receive comments on the proposed state Underground Injection Control Program.

Information may be obtained from Donald Walker, P.O. Box 13087, Austin, Texas 78711, (512) 475-7841.

Filed: March 17, 1981, 9:05 a.m.
Doc. No. 811761

Regional Agencies

Meetings Filed March 12, 1981

The Camino Real Health Systems Agency, Inc., Board of Directors, met in the second floor conference room, 410 South Main Avenue, San Antonio, on March 18, 1981, at 7 p.m. Information may be obtained from Jose Antonio Contreras, 410 South Main Avenue, Suite 212, San Antonio, Texas 78204, (512) 225-4426.

The Capitol Area Rural Transportation System, Board of Directors, held an emergency meeting at 2520 IH 35 South, Austin, on March 13, 1981, at 1:30 p.m. Information may be obtained from Gayle M. Sundeen, 1000 North Lamar, Austin Texas, (512) 474-8315.

The Middle Rio Grande Development Council, Aging Advisory Committee, met in the city council chambers, city hall, Uvalde, on March 18, 1981, at 2 p.m. Information may be obtained from Anna M. Howenstine, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

Doc. No. 811626

Meetings Filed March 13, 1981

The Central Texas Manpower Consortium, Private Industry Council, met at the Hele Mai Restaurant, River Forest Motel, Belton, on March 16, 1981, at 7 p.m. Information may be obtained from Martin E. Borth, P.O. Box 706, Belton, Texas 76513, (817) 939-1837.

The Education Service Center, Region XV, Board of Directors, will meet at 100 North Magdalen, San Angelo, on March 26, 1981, at 1:30 p.m. Information may be obtained from Clyde Warren, Box 5199, San Angelo, Texas 76902, (915) 655-6551.

The Guadalupe-Blanco River Authority, Board of Directors, met at 933 East Court Street, Seguin, on March 19, 1981, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

The Lower Colorado River Authority met at 3700 Lake Austin Boulevard, Austin, on March 19, 1981, at 9 a.m. Information may be obtained from Charles Herring, P.O. Box 220, Austin, Texas 78767.

The North Texas Municipal Water District, Board of Directors, will meet in the administrative office, Highway 78 East, Wylie, on March 26, 1981, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas, (214) 442-2217.

The Panhandle Regional Planning Commission, Project Notification and Review System Committee, met in the first floor conference room, Amarillo Building, Third and Polk Streets, Amarillo, on March 19, 1981, at 1:30 p.m. Information may be obtained from Mike McQueen, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

The Pecan Valley MH/MR Region, Board of Trustees, met at the First United Methodist Church, 204 East Pearl, Granbury, on March 18, 1981, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Permian Basin Health Systems Agency, Projects Review Committee, will meet at Midland Air Terminal, Midland, on March 23, 1981, at 7:30 p.m. The governing body will meet at the same location, on March 30, 1981, at 7:30 p.m. Information may be obtained from Jeanne Kaferle, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

The San Antonio River Authority, San Antonio River Basin Advisory Committee, will meet at 100 East Guenther Street, San Antonio, on March 24, 1981, at 2 p.m. Information may be obtained from Russell L. Masters, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.

The South Texas Development Council, Government Application Review Committee, has rescheduled a meeting (originally scheduled for March 26, 1981, at 10 a.m.) to be held at the Zapata Community Center, Zapata, on March 31, 1981, at 10 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78040, (512) 722-3995.

The West Texas Health Systems Agency, governing body, met in the Erica Room of the Rodeway Inn, 6201 Gateway West, El Paso, on March 19, 1981, at 7:30 p.m. Information may be obtained from Cory Vaughan, 303 North Oregon, Suite 700, El Paso, Texas 79901, (915) 532-2910.

Doc. No. 811643

Meetings Filed March 16, 1981

The Bastrop County Appraisal Board will meet in the commissioner's courtroom, Bastrop County Courthouse, Bastrop, on March 20, 1981, at 4 p.m. Information may be obtained from James M. Archer, 801 Pine Street, Bastrop, Texas 78602, (512) 321-4316.

The Copano Bay Soil Conservation, District 329, will meet at the Shay Plaza, 106 South Amamo, Refugio, on March 23, 1981, at 7 p.m. Information may be obtained from Jim Wales, Drawer 340, Refugio, Texas 78377, (512) 526-2334.

The Deep East Texas Regional MH/MR Services, Board of Trustees, will meet in the Ward R. Burke Community Room of the Day Treatment/Administration Facility, 4101 South Medford Drive, Lufkin, on March 24, 1981, at 5:30 p.m. Information may be obtained from Wayne Lawrence, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (713) 639-1141.

The Leon County Central Appraisal District, Board of Directors, will meet in the county courtroom, Centerville, on March 16, 1981, at 7 p.m. Information may be obtained from Mabel Watson, General Delivery, Centerville, Texas 75833, (214) 536-2911.

The Middle Rio Grande Development Council, Board of Directors, will meet in the Uvalde Civic Center, Uvalde, on March 26, 1981, at 2:30 p.m. The Manpower Services Division will meet at the same location on March 26, 1981, at 1 p.m. Information may be obtained from Hector Jimenez and Victor H. Chapa, respectively, P.O. Box 702, Carrizo Springs, Texas, (512) 876-3533.

The Education Service Center, Region IV, Board of Directors, will meet in the Nantucket Room of the Anchorage Restaurant, 2504 North Loop West, Houston, on April 7, 1981, at 6 p.m. Information may be obtained from Dr. Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 868-1051.

The Sabine Valley Regional MH/MR, Board of Trustees, will meet at Route 6, Box 1 (Airport Road), Marshall, on March 26, 1981, at 7:30 p.m. Information may be obtained from Frances H. Willis, P.O. Box 6800, Longview, Texas, (214) 297-2191.

The South Texas Health Systems Agency, Board of Directors, will meet at the Round Table Restaurant, 1418 South 14th Street, Kingsville, on March 21, 1981, at 1 p.m. Information may be obtained from Mario L. Vasquez, Station 1, Box 2378, Kingsville, Texas 78363, (512) 595-5545.

Doc. No. 811725

Meetings Filed March 17, 1981

The Bell County Appraisal District will meet in the second floor commissioners courtroom, Bell County Courthouse, Belton, on April 8, 1981, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Belton, Texas 76513, (817) 939-3521, ext. 294.

The Henderson County Appraisal District, Board of Directors, will meet in Room 202, 101 East Corsicana, Athens, on March 26, 1981, at 7:30 p.m. Information may be obtained from A. K. Monroe, 101 East Corsicana, Room 202, Athens, Texas 75751, (214) 675-9296.

The Lower Rio Grande Valley Development Council, Board of Directors, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on March 25, 1981, at 1 p.m. Information may be obtained from Robert A.

Chandler, First National Bank Building, Suite 207, McAllen, Texas 78501, (512) 682-3481.

The Permian Basin Regional Planning Commission, Board of Directors, will meet in the Permian Basin Regional Planning Commission Building, Midland, on March 25, 1981, at 1:30 p.m. Information may be obtained from Ernie Crawford, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

The San Jacinto River Authority, Board of Directors, will meet at the Lake Conroe Building, Dam Site, Highway 105 West, Conroe, on March 24, 1981, at 2 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77301, (713) 588-1111.

Doc. No. 811762

MANUFACTURING



Texas Air Control Board

Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of March 9-13, 1981.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

Week Ending March 13, 1981

Diamond Shamrock Plastics Corp., Deer Park; PVC plant, VCM flare 205; Tidal Road; 888A and 2599A; new sources

Diamond Shamrock Plastics Corp., Deer Park; PVC storage bins and silos DPP 066-DPP075; Tidal Road; 4673A; new source

Diamond Shamrock Plastics Corp., La Porte; vinyl chloride plant and ship loading facility; Independence plant; 3855A and 6913A; new sources

Utility Fuels, Inc., Thompsons; coal unloading and handling system; W. A. Parish electric generating station; 4130A and 7706A; new sources

Strain Brothers, Inc., Bakersfield; rock crushing plant; University of Texas pit; 6855A; modification

Georgetown Railroad Co., Georgetown; grit blast and paint; location unavailable; 8724; new source

Fort Worth Steel and Machinery Co., Dallas; sand reclamation system; 2944 Ash Lane; 8725; new source

Dallas Ceramic Co., Dallas; ceramic tile material unloading, processing, and storage; 7834 Hawn Freeway; 8726; new source

Texas Medical Center Heating and Cooling Coop., Houston; air conditioning and heating; 1615 Braeswood; 8727; new source

Issued in Austin, Texas, on March 13, 1981.

Doc. No. 811707 Ramon Dasch
 Director of Hearings
 Texas Air Control Board

Filed: March 16, 1981, 9:53 a.m.

For further information, please call (512) 451-5711, ext. 354.

Texas Department of Community Affairs

Consultant Proposal Request

Notice of Invitation for Proposals. The Texas Department of Community Affairs (TDCA), a prime sponsor under the auspices of the Comprehensive Employment and Training Act, announces this proposal request to deliver the services described herein. TDCA is soliciting proposals to continue its ongoing marketing/media campaign aimed at increasing the involvement of the business community in employment and training activities conducted under the Comprehensive Employment and Training Act

Qualifications Desired by TDCA. The media services solicited by TDCA under this proposal request are a continuation of the marketing/media campaign currently being performed by Neal Spelce Associates, a public relations and advertising firm. TDCA intends to award the contract which may result from this request to Neal Spelce Associates, unless a better offer is submitted.

To be eligible, offerors must evidence the capability to accomplish the requested services. Proposals must include specific documentation of the offeror's capability to provide the requested services. Any selected offeror will be expected to assume responsibility for delivery of media services under Title VII of the Comprehensive Employment and Training Act as directed by TDCA. Proposals must include documentation of offeror's legal authority to contract with TDCA to provide the requested services. This shall be accomplished by completing and submitting a Contractor Certification of Eligibility Form (TDCA Form 17-78-1(78)) which may be obtained from TDCA at the address below. Each offeror shall include in its proposal a list of all persons employed by the offeror who have been employed by TDCA or by another state agency at any time during the two years preceding the date of this proposal request.

Deadline for Submission of Proposals. This proposal request will close as of March 27, 1981, except for those proposals received postmarked on or before March 25, 1981.

Provision for Obtaining Additional Information. Proposal preparation instruction packages may be obtained from Jim Boyd, Manpower Services Division, first floor, TDCA Building, 210 Barton Springs Road, Austin.

General Information. TDCA reserves the right to accept or reject any (or all) proposals submitted. TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement, and intends the material provided herein only as a means of generally identifying the services desired by TDCA. TDCA intends to use responses hereto as a basis for further negotiations of specific project details with potential contractors. In the event that TDCA selects a contractor to provide the delivery of service provided herein, TDCA will base its choice on demonstrated competence and qualifications and the reasonableness of the fee for services. This request does not commit TDCA to pay for any costs incurred prior to execution of a contract and is subject to availability of funds from the United States Department of Labor for this procurement. Issuance of this material in no way obligates TDCA to award a contract or to pay any costs incurred in the preparation of a response hereto.

Contact. For further information regarding this notice, please contact Jim Boyd, Manpower Services Division at (512) 475-6256.

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811705 Jeanne Marcus
 General Counsel
 Texas Department of Community Affairs

Filed: March 16, 1981, 9:53 a.m.
 For further information, please call (512) 475-6903.

Request for Proposals

Notice of Acceptance of Program Applications. The Texas Department of Community Affairs (TDCA), under the authority of its enabling act, Texas Civil Statutes, Article 4413 (201), and Texas Civil Statutes, the Texas Controlled Substances Act of Article 4776-15, §5.11, is currently accepting applications from drug abuse treatment service providers throughout the State of Texas in order that drug treatment services may continue to be provided in those areas of identified need. Current drug abuse treatment service providers seeking renewal contracts will be given priority as indicated in the general information section below. Before TDCA can consider any submitted application from a treatment provider, the provider must already be delivering drug treatment services or possess a certificate of need (prior to July 1, 1981) from the Texas Health Facilities Commission indicating the need for drug treatment services in the area of the state for which the applicant is seeking funding.

General Information. Applicants should propose drug abuse treatment services for a period of 12 months beginning July 1, 1981. Drug treatment providers will be required to provide approximately 40% of the total proposed cost as match. TDCA reserves the right to accept or reject any or all applications submitted under this announcement and to negotiate modifications to improve the quality or cost effectiveness of any application. TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this announcement and intends the material provided herein only as a means of identifying the services sought by TDCA.

Selections Process. TDCA will base its selection of contractors on factors such as the capacity of the offeror to manage and deliver the services, quality of the application, documentation of the need for services, availability of the offeror match, and the availability of funds. TDCA intends to continue effective programs with current contractors unless a new applicant proposes a superior program and demonstrates a significant need for drug treatment services in its area. In addition, applications are subject to review by the appropriate health systems agency or agencies, as required by Public Law 93-64, National Health Planning and Resources Development Act. This announcement does not commit TDCA to pay for any costs incurred prior to the execution of a contract and is subject to the availability of appropriate funds. Issuance of this material in no way obligates TDCA to award a contract.

Deadline for Submission of Applications. The deadline for the receipt of applications of TDCA is April 10, 1981, at 5 p.m.

Contact. For the purposes of obtaining an application preparation package, contact chief, Program Development Branch, Drug Abuse Prevention Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711, (512) 475-5566.

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811675 Jeanne Marcus
 General Counsel
 Texas Department of Community Affairs

Filed: March 16, 1981, 9:15 a.m.
 For further information, please call (512) 475-6903.

Comptroller of Public Accounts

Administrative Decision

Summary of Administrative Decision 10,478

For copies of the following opinion selected and summarized by the administrative law judges, contact the administrative law judges, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with our confidentiality statutes.

Summary of Decision: Where a taxpayer seeks compromise or settlement of tax liability under Texas Taxation—General Annotated, Article 1.032A(a)(2) or (3), i.e., claiming insolvency or that payment of the entire amount would make him insolvent, it is incumbent upon the taxpayer to prove his claim. Here, taxpayer filed an affidavit with respect to his financial condition, but failed to submit documentation requested by the tax division pursuant to the statute, and was refused any compromise or settlement of the liability. Decision rendered October 23, 1980.

Issued in Austin, Texas, on March 11, 1981.

Doc. No. 811621 Bob Bullock
 Comptroller of Public Accounts

Filed: March 12, 1981, 10:04 a.m.
 For further information, please call (512) 475-1938.

Texas Health Facilities Commission

Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of March 10-13, 1981.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecu-

tive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, Rules 315.17.05.010-.030, Rules 315.18.04.010-.030, and Rules 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

North Plains Hospital, Borger (3/12/81)
AH81-0309-023

EC—Request to contract for mobile ultrasound services

Valley Community Hospital, Brownsville (3/13/81)
AH81-0310-010

EC—Request to construct approximately 212 square feet of space to be utilized as a gift shop by the hospital auxiliary

Stephenville Hospital, Inc., Stephenville (3/13/81)
AH78-0110-015A (031081)

AMD/CN—Request to extend the completion deadline in Certificate of Need AH78-0110-015, which authorized the replacement of a nonconforming section of the hospital and the expansion of certain hospital departments

Issued in Austin, Texas, on March 16, 1981.

Doc. No. 811706 John R. Neel
 General Counsel
 Texas Health Facilities Commission

Filed: March 16, 1981, 9:51 a.m.
For further information, please call (512) 475-6940.

Legislative Information System of Texas

Toll-Free Telephone Number

The Texas Senate and House of Representatives are providing information on the activities of the 67th Legislature

through a toll-free statewide WATS line to the Legislative Information System of Texas (LIST).

Information available includes bill status, schedules and agendas of committee meetings and hearings, and lists of bills by author, committee, and subject.

The LIST statewide toll-free telephone number is **1-800-252-9693** for calls from outside the Austin area. For calls originating in Austin, the telephone number is (512) 475-3026.

Panhandle Regional Planning Commission

Consultant Proposal Request

The Panhandle Regional Planning Commission, in accordance with Vernon's Texas Civil Statutes, Article 6252-11c, is accepting proposals to conduct a study on the impact of coal-train traffic in North Texas.

Description of Study. The purpose of the study will be to identify problems created by increased coal-train traffic and to identify low-cost solutions to them. A committee selected by the Amarillo Chamber of Commerce will award the contract. They will judge proposals on experience and qualifications of the proposer, access to pertinent data, and cost.

Contact Person. Persons interested in responding may receive a proposal request packet from Vicki Jacobs, economic development administrator, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

Deadline. Closing date for accepting proposals is May 1, 1981.

Issued in Amarillo, Texas, on March 10, 1981.

Doc. No. 811708 Vicki Jacobs
 Economic Development Administrator
 Panhandle Regional Planning
 Commission

Filed: March 16, 1981, 9:53 a.m.
For further information, please call (806) 372-3381.

Texas Tourist Development Agency

Consultant Proposal Request

Pursuant to Vernon's Texas Civil Statutes, Article 6252-11c, the Texas Tourist Development Agency (TTDA) serves notice of invitation for offers of services on the project described below.

It is the TTDA's intent to award the contract to the producer who previously performed the service (Bob Griffin, Box 4812, Shreveport, Louisiana 71104), unless a better offer, meaning one that is both satisfactory to the Texas Tourist Development Agency and the 12 television stations involved, is received.

Contact Person. A video tape producer who wants to make an offer on this project should contact Elmer C. Whiddon, Jr., chief of media relations, TTDA, Box 12008, Austin, Texas 78711.

Closing Date. No offers will be considered unless they are received by 5 p.m. March 27, 1981.

Services To Be Performed. The producer chosen will render all services in producing, editing, and distributing for TTDA 50 90-second video taped or filmed segments concerning Texas tourism. Producer will distribute any such segments to a maximum of 12 Texas television stations designated by TTDA. However, it is understood between producer and TTDA that all 50 segments are the property of producer and cannot be distributed to other television stations than the 12 designated Texas stations or to any other party without the prior consent of producer and without the payment of additional compensation to producer at a rate to be set by producer.

Method of Selection. In order to be considered as an interested bidder, the bidder must shoot a minimum of two 1-1/2 minute sample television features and provide these to TTDA on video tape. The video tapes will be reviewed by TTDA and the television stations who will be using the travel features. Subjects for the two tapes will be mutually agreed upon by the bidder and TTDA. TTDA will be responsible for submitting the tapes to the television stations involved for their approval. Following the reviewing process, the tapes will remain the property of the bidder.

After all tapes from all bidders have been submitted to TTDA, reviewed by TTDA and the television stations involved, a decision will be made by TTDA as to which bidder will be awarded the video tape producer contract.

Compensation. TTDA will pay producer the sum of \$30,000 payable in 12 equal payments of \$2,500.

Time Frame. All 50 segments to be delivered by August 31, 1982, with services commencing September 1, 1981. TTDA reserves the right to reject, in total or part, any and/or all proposals.

Issued in Austin, Texas, on March 12, 1981.

Doc. No. 811646 Frank Hildebrand
Executive Director
Texas Tourist Development Agency

Filed: March 13, 1981, 9:21 a.m.
For further information, please call (512) 475-4326.

Texas Water Commission

Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of March 9-13, 1981.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; and (2) a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance

of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Week Ending March 13, 1981

Lone Star Industries, Inc., (Burnet plant), Houston; limestone crushing operation; three miles south of the City of Burnet in Burnet County; 00641; renewal

State Department of Highways and Public Transportation, Amarillo; domestic sewage facility; west of IH 40 and FM Road 2373 southwest of the City of Panhandle in Carson County; 12338; new permit

McAdoo Water Supply Corp., McAdoo; oxidation pond system; near the community of McAdoo in Dickens County; 11862; amendment

Shell Oil Co., (Odessa refinery), Odessa; storm water facility; South Grandview Street in the City of Odessa, Ector County; 01437; renewal

Robert F. Bloom, Lubbock; commercial dairy facility; northeast of the community of Lone Star in Floyd County; 2474; new permit

Monsanto Co., Texas City; on plant property, north of the south line of the Sylvester Bowen survey, Abstract 24 in Galveston County; WDW-196; amendment

Monsanto Co., Texas City; disposal well; on plant property, north of the south line of the Sylvester Bowen and Norman Hurd survey in Galveston County; WDW-91; new permit

Issued in Austin, Texas, on March 13, 1981.

Doc. No. 811633 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: March 12, 1981, 2:51 p.m.
For further information, please call (512) 475-1311.



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