

OTHER PERTINENT STATUTE CITATIONS

1. **AGRICULTURE CODE CHAPTER 71. GENERAL CONTROL:** Section 71.151, Relating to the Agriculture Department consulting with the State Soil and Water Conservation Board on a list of noxious and invasive plant species that have serious potential to cause economic or ecological harm to the state.
2. **CIVIL PRACTICE AND REMEDIES CODE CHAPTER 102. TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS:** Section 102.001, Relating to soil and water conservation districts being defined as “local government” with respect to tort claims payments.
3. **GOVERNMENT CODE CHAPTER 487. OFFICE OF RURAL COMMUNITY AFFAIRS:** Section 487.054, Relating to the Office of Rural Community Affairs (ORCA) convening a meeting of agency heads or their designees, including the State Soil and Water Conservation Board, to discuss rural issues and to provide information showing the impact each agency has on rural communities for use in developing rural policy and compiling an annual report under Section 487.051(4).
4. **GOVERNMENT CODE CHAPTER 490E. TASK FORCE ON ECONOMIC GROWTH AND ENDANGERED SPECIES:** Section 490E.003, Relating to the inclusion of the Executive Director as a member of the Task Force on Economic Growth and Endangered Species.
5. **GOVERNMENT CODE CHAPTER 776. TEXAS INVASIVE SPECIES COORDINATING COMMITTEE:** Section 776.001, Relating to the establishment of the Texas Invasive Species Coordinating Committee, and the administrative attachment of the committee to the State Soil and Water Conservation Board.
6. **GOVERNMENT CODE CHAPTER 2254. PROFESSIONAL AND CONSULTING SERVICES:** Section 2254.021, Relating to soil and water conservation districts being political subdivisions of state government with respect to requirements for professional and consulting services contracts.
7. **HEALTH AND SAFETY CODE CHAPTER 361. SOLID WASTE DISPOSAL ACT:** Section 361.024, Relating to the Texas Commission on Environmental Quality consulting with the State Soil and Water Conservation Board on rulemaking pertaining to establishing minimum standards of operation for the management and control of solid waste.
8. **HEALTH AND SAFETY CODE CHAPTER 366. ON-SITE SEWAGE DISPOSAL SYSTEMS:** Section 366.002, Relating to soil and water conservation districts being a “local governmental entity” with respect to defining “authorized agent” for the implementation and enforcement rules for on-site sewage disposal systems.
9. **HEALTH AND SAFETY CODE CHAPTER 401. RADIOACTIVE MATERIALS AND OTHER SOURCES OF RADIATION:** Section 401.111, Relating to the Texas Commission on Environmental Quality consulting with the State Soil and Water Conservation Board on rulemaking for the issuance of licenses under the commission's jurisdiction for new sites for processing or disposal of radioactive substances.
10. **NATURAL RESOURCES CODE CHAPTER 33. MANAGEMENT OF COASTAL PUBLIC LAND:** Section 33.2041, Relating to the State Soil and Water Conservation Board’s inclusion on the Coastal Coordination Council.
11. **NATURAL RESOURCES CODE CHAPTER 33. MANAGEMENT OF COASTAL PUBLIC LAND:** Section 33.2051, Relating to the State Soil and Water Conservation Board complying with Sections 33.205(a) and (b) when adopting or amending a rule governing agricultural or silvicultural nonpoint source pollution.

- 12. NATURAL RESOURCES CODE CHAPTER 131. URANIUM SURFACE MINING AND RECLAMATION ACT:** Section 131.139, Relating to the State Soil and Water Conservation Board submitting comments on permit applications for mining operations to the General land Office within 30 days.
- 13. NATURAL RESOURCES CODE CHAPTER 153. PRESCRIBED BURNING:** Section 153.041, Relating to the inclusion of the State Soil and Water Conservation Board on the Prescribed Burning Board.
- 14. TAX CODE CHAPTER 23. APPRAISAL METHODS AND PROCEDURES:** Section 23.9801, Relating to a management plan for appraisal of restricted-use timber land being consistent with the agricultural and silvicultural nonpoint source pollution management program administered by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.
- 15. TRANSPORTATION CODE CHAPTER 223. BIDS AND CONTRACTS FOR HIGHWAY PROJECTS:** Section 223.044, Relating to the State Soil and Water Conservation Board entering into a contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision to perform a brush control project described by Subsection (e) or under Chapter 203, Agriculture Code.
- 16. WATER CODE CHAPTER 5. TEXAS NATURAL RESOURCE CONSERVATION COMMISSION:** Section 5.605, Relating to the State Soil and Water Conservation Board participating and providing assistance to the estuary programs in implementing approved comprehensive conservation and management plans.
- 17. WATER CODE CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL:** Section 10.003, Relating to the inclusion of the State Soil and Water Conservation Board on the Water Conservation Advisory Council.
- 18. WATER CODE CHAPTER 15. TEXAS WATER ASSISTANCE PROGRAM:** Section 15.613, Relating to the duty of an eligible lending institution obtaining certification of a water quality management plan from the executive director of the State Soil and Water Conservation Board in conjunction with an application for funding under the Safe Drinking Water Revolving Fund administered by the Texas Water Development Board.
- 19. WATER CODE CHAPTER 16. PROVISIONS GENERALLY APPLICABLE TO WATER DEVELOPMENT:** Section 16.022, Relating to Texas Water Development Board and the State Soil and Water Conservation Board jointly conducting a study of the ways to improve or expand water conservation efforts and report to the legislature.
- 20. WATER CODE CHAPTER 17. PUBLIC FUNDING:** Section 17.897, Relating to a “conservation program” under the Agricultural Water Conservation Bond Program of the Texas Water Development Board including programs for on-farm soil and water conservation plans developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code.
- 21. WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.0135, Relating to watershed monitoring and assessment of water quality by the Texas Commission on Environmental Quality involving agricultural or silvicultural nonpoint source pollution being coordinated through the State Soil and Water Conservation Board with local soil and water conservation districts.
- 22. WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.0136, Relating to the Texas Commission on Environmental Quality coordinating all water quality management functions for abating agricultural or silvicultural nonpoint source pollution through the State Soil and Water Conservation Board, as provided by Section 201.026, Agriculture Code.

23. **WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.121, Relating to the Texas Commission on Environmental Quality authorizing discharges to any water in the state when the discharge complies with a person's certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code.
24. **WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.1311, Relating to the State Soil and Water Conservation Board and its authorized agents being designated as responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source pollution as provided by Section 201.026, Agriculture Code.
25. **WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.302, Relating to (1) a person who owns or operates a poultry facility being required to implement and maintain a water quality management plan for the facility that is certified by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code, (2) the State Soil and Water Conservation Board being authorized to certify a water quality management plan for a poultry facility that does not use a liquid waste handling system and is required to obtain a permit or other authorization from the commission, and (3) the State Soil and Water Conservation Board not certifying a water quality management plan for a poultry facility located less than one-half of one mile from a business, off-site permanently inhabited residence, or place of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides an odor control plan the executive director determines is sufficient to control odors.
26. **WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.403, Relating to the inclusion of the executive director of the State Soil and Water Conservation Board as a member of the Texas Groundwater Protection Committee.
27. **WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.406, Relating to the State Soil and Water Conservation Board maintaining a public file of all documented cases of groundwater contamination that are reasonably suspected of having been caused by activities regulated by the agency.
28. **WATER CODE CHAPTER 26. WATER QUALITY CONTROL:** Section 26.503, Relating to detailed nutrient utilization plans developed by the State Soil and Water Conservation Board for historical waste application fields within the scope of an individual permit issued or amended by the Texas Commission on Environmental Quality.

1. AGRICULTURE CODE CHAPTER 71. GENERAL CONTROL: Section 71.151, Relating to the Agriculture Department consulting with the State Soil and Water Conservation Board on a list of noxious and invasive plant species that have serious potential to cause economic or ecological harm to the state.

SUBCHAPTER D. NOXIOUS AND INVASIVE PLANTS

Sec. 71.151. LIST REQUIRED. (a) The department by rule shall publish a list of noxious and invasive plant species that have serious potential to cause economic or ecological harm to the state. The department may publish lists of noxious and invasive plant species organized by region.

(b) In preparing or amending a list under this section, the department shall:

(1) consult with representatives from the agriculture industry, the horticulture industry, the Texas Cooperative Extension, the Texas Department of Transportation, the State Soil and Water Conservation Board, and the Parks and Wildlife Department;

(2) consider any available scientific data and economic impact information for each plant species; and

(3) use any standard criteria established by the department.

Added by Acts 2003, 78th Leg., ch. 900, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 618, Sec. 2, eff. September 1, 2005.

2. CIVIL PRACTICE AND REMEDIES CODE CHAPTER 102. TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS: Section 102.001, Relating to soil and water conservation districts being defined as “local government” with respect to tort claims payments.

CHAPTER 102. TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS

Sec. 102.001. DEFINITIONS. In this chapter:

(1) "Employee" includes an officer, volunteer, or employee, a former officer, volunteer, or employee, and the estate of an officer, volunteer, or employee or former officer, volunteer, or employee of a local government. The term includes a member of a governing board. The term does not include a county extension agent.

(2) "Local government" means a county, city, town, special purpose district, including a soil and water conservation district, and any other political subdivision of the state.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., 1st C.S., ch. 2, Sec. 3.07, eff. Sept. 2, 1987; Acts 1999, 76th Leg., ch. 1115, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 996, Sec. 1, eff. June 15, 2007.

Sec. 102.002. PAYMENT OF CERTAIN TORT CLAIMS. (a) A local government may pay actual damages awarded against an employee of the local government if the damages:

(1) result from an act or omission of the employee in the course and scope of his employment for the local government; and

(2) arise from a cause of action for negligence.

(b) The local government may also pay the court costs and attorney's fees awarded against an employee for whom the local government may pay damages under this section.

(c) Except as provided by Subsection (e), a local government may not pay damages awarded against an employee that:

(1) arise from a cause of action for official misconduct; or

(2) arise from a cause of action involving a wilful or wrongful act or omission or an act or omission constituting gross negligence.

(d) A local government may not pay damages awarded against an employee to the extent the damages are recoverable under an insurance contract or a self-insurance plan authorized by statute.

(e) A local government that does not give a bond under Section 702(b), Texas Probate Code, shall pay damages awarded against an employee of the local government arising from a cause of action described by Subsection (c) if the liability results from the employee's appointment as guardian of the person or estate of a ward under the Texas Probate Code and the action or omission for which the employee was found liable was in the course and scope of the person's employment with the local government.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 924, Sec. 3, eff. Sept. 1, 1997.

Sec. 102.003. MAXIMUM PAYMENTS. Payments under this chapter by a local government may not exceed:

(1) \$100,000 to any one person or \$300,000 for any single occurrence in the case of personal injury or death; or

(2) \$10,000 for a single occurrence of property damage, unless the local government is liable in the local government's capacity as guardian under the Texas Probate Code and does not give a bond under Section 702(b), Texas Probate Code, in which event payments may not exceed the amount of the actual property damages.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 924, Sec. 4, eff. Sept. 1, 1997.

Sec. 102.004. DEFENSE COUNSEL. (a) A local government may provide legal counsel to represent a defendant for whom the local government may pay damages under this chapter. The counsel provided by the local government may be the local government's regularly employed counsel, unless there is a potential conflict of interest between the local government and the defendant, in which case the local government may employ other legal counsel to defend the suit.

(b) Legal counsel provided under this section may settle the portion of a suit that may result in the payment of damages by the local government under this chapter.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 102.005. SECURITY FOR COURT COSTS NOT REQUIRED. In a case defended under this chapter, neither the defendant nor a local government is required to advance security for costs or to give bond on appeal or writ of error.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 102.006. OTHER LAWS NOT AFFECTED. This chapter does not affect:

- (1) Chapter 101 of this code (the Texas Tort Claims Act); or
- (2) a defense, immunity, or jurisdictional bar available to a local government or an employee.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

3. GOVERNMENT CODE CHAPTER 487. OFFICE OF RURAL COMMUNITY

AFFAIRS: Section 487.054, Relating to the Office of Rural Community Affairs (ORCA) convening a meeting of agency heads or their designees, including the State Soil and Water Conservation Board, to discuss rural issues and to provide information showing the impact each agency has on rural communities for use in developing rural policy and compiling an annual report under Section 487.051(4).

Sec. 487.054. ANNUAL MEETING ON RURAL ISSUES. (a) At least once each year, the following agency heads or their designees shall meet in Austin to discuss rural issues and to provide information showing the impact each agency has on rural communities for use in developing rural policy and compiling the annual report under Section 487.051(4):

- (1) the commissioner of agriculture;
- (2) the executive director of the Public Utility Commission of Texas;
- (3) the director of the Texas Agricultural Extension Service;
- (4) the executive director of the Texas Department of Housing and Community Affairs;
- (5) the commissioner of the Department of State Health Services;
- (6) the executive administrator of the Texas Water Development Board;
- (7) the executive director of the Parks and Wildlife Department;
- (8) the commissioner of higher education;
- (9) the comptroller;
- (10) the executive director of the Texas Department of Transportation;
- (11) the executive director of the Texas Commission on Environmental Quality;
- (12) the executive director of the Texas Economic Development and Tourism Office;
- (13) the commissioner of insurance;

- (14) the commissioner of the Department of Aging and Disability Services;
- (15) the commissioner of education;
- (16) the executive commissioner of the Health and Human Services Commission;
- (17) the executive director of the Texas Workforce Commission;
- (18) the executive director of the Texas Historical Commission;
- (19) a member of the Railroad Commission of Texas;
- (20) the executive director of the State Soil and Water Conservation Board;
- (21) the executive director of the office; and
- (22) the head of any other agency interested in rural issues.

(b) The board shall call the annual meeting. The board shall set the time and date of the meeting after consulting with the agency heads listed in Subsection (a).

(c) In addition to the individuals identified by Subsection (a), the governor shall designate a representative from the entity that provides mediation services to the state under 7 U.S.C. Section 5102 to attend meetings held under this section.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1025, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 415, Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 831, Sec. 4, eff. September 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1241, Sec. 12, eff. June 15, 2007.

4. GOVERNMENT CODE CHAPTER 490E. TASK FORCE ON ECONOMIC GROWTH AND ENDANGERED SPECIES: Section 490E.003, Relating to the inclusion of the Executive Director as a member of the Task Force on Economic Growth and Endangered Species.

(Statute text not available as of SER due date; legislation substituted)

S.B. No. 2534, 81st Regular Session

AN ACT

relating to the creation of an interagency task force on economic growth and endangered species; providing information and direction regarding endangered species issues in certain areas of the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490E to read as follows:

CHAPTER 490E. TASK FORCE ON ECONOMIC GROWTH AND ENDANGERED SPECIES

Sec. 490E.001. PURPOSE. The purpose of this chapter is to establish a mechanism for state agencies to provide policy and technical assistance regarding compliance with endangered species laws and regulations to local and regional governmental entities and their communities engaged in economic development activities so that compliance with endangered species laws and regulations is as effective and cost efficient as possible.

Sec. 490E.002. DEFINITIONS. In this chapter:

(1) "Endangered species" has the meaning assigned by Section 68.002, Parks and Wildlife Code.

(2) "Task force" means the interagency task force on economic growth and endangered species created under this chapter.

Sec. 490E.003. CREATION. (a) The task force on economic growth and endangered species is created and is composed of:

(1) the comptroller;

(2) the commissioner of agriculture;

(3) the executive director of the Parks and Wildlife Department;

(4) the executive director of the Texas Department of Transportation; and

(5) the executive director of the State Soil and Water Conservation Board.

(b) The comptroller is the presiding officer of the task force.

(c) The task force shall meet as often as necessary to fulfill its duties under this chapter.

(d) New members may be added to the task force by the unanimous consent of the existing members.

(e) A member of the task force may designate another person to act on the member's behalf.

Sec. 490E.004. FUNCTIONS AND DUTIES. (a) The task force may:

(1) assess the economic impact on the state of federal, state, or local regulations relating to endangered species;

(2) assist landowners and other persons in this state to identify, evaluate, and implement cost-efficient strategies for mitigation of impacts to and recovery of endangered species that will promote economic growth and development in this state; and

(3) facilitate state and local governmental efforts to effectively implement endangered species regulations in a cost-efficient manner.

(b) If requested by a local government or a state official, the task force may review state and local governmental efforts to address endangered species issues and provide recommendations to make those efforts more cost effective. The task force shall consider all available options as part of its recommendations. The options considered must include:

- (1) fee simple acquisition of land;
- (2) conservation easements;
- (3) use of land owned by local governments or this state;
- (4) recovery crediting; and
- (5) all relevant federal programs.

Sec. 490E.005. ADVISORY COMMITTEES. (a) With the advice of the task force, the comptroller may create advisory committees to assist the task force with its work. Of the members of an advisory committee:

- (1) one-third must be representatives of affected landowners;
- (2) one-third must be representatives of conservation interests; and
- (3) one-third must be representatives of municipalities or other affected jurisdictions.

(b) The composition of an advisory committee must provide the balance necessary to address economic, environmental, and policy issues related to the specific issue or action under consideration.

(c) The comptroller shall designate one member of an advisory committee as interim presiding officer for the purpose of calling and conducting the initial meeting of the committee.

(d) An advisory committee shall:

(1) at its initial meeting, select a presiding officer from among its members for the purpose of conducting meetings;

(2) conduct meetings as necessary to perform the business of the advisory committee; and

(3) provide recommendations to the task force as requested by the task force.

(e) Chapter 2110 does not apply to the size, composition, or duration of an advisory committee created under this section.

Sec. 490E.006. COORDINATION WITH OTHER ENTITIES. (a) The task force shall work in coordination with the United States Fish and Wildlife Service, institutions of higher education, and agriculture and conservation organizations in performing its functions and duties.

(b) The Texas A&M University System shall, within its expertise:

(1) assist in the analysis of biological and economic impacts of proposed actions;
and

(2) direct programs recommended by the task force.

Sec. 490E.007. REPORTS. The task force may provide reports as needed on:

(1) innovative programs to address endangered species issues while promoting economic growth;

(2) the activities of the task force; and

(3) recommendations for future programs or legislation.

Sec. 490E.008. ADMINISTRATIVE SUPPORT. The comptroller's office shall provide administrative support to the task force.

SECTION 2. (a) In this section:

(1) "Endangered Species Act" means the federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.).

(2) "Task force" has the meaning assigned by Section 490E.002, Government Code, as added by this Act.

(b) Not later than the 30th day after the effective date of this Act, the comptroller of public accounts shall create an advisory committee to assist the task force in identifying cost-efficient and effective recommendations for economic development and Endangered Species Act compliance in the Camp Bullis area in Bexar County.

(c) Not later than October 31, 2009, the task force, with input from the advisory committee created under Subsection (b) of this section, shall provide a recommendation on a specific, coordinated program of work to assist Camp Bullis in accomplishing its training missions in a manner consistent with applicable endangered species regulations and programs.

(d) Not later than January 15, 2011, the task force shall provide a report to the legislature on the activities of the task force and the status of efforts to mitigate harm to and efforts toward recovery of endangered species at Camp Bullis.

(e) The advisory committee created under this section is abolished on the completion of its duties as determined by the task force.

SECTION 3. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If

this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2534 passed the Senate on May 7, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2534 passed the House on May 26, 2009, by the following vote: Yeas 143, Nays 2, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

5. GOVERNMENT CODE CHAPTER 776. TEXAS INVASIVE SPECIES

COORDINATING COMMITTEE: Section 776.001, Relating to the establishment of the Texas Invasive Species Coordinating Committee, and the administrative attachment of the committee to the State Soil and Water Conservation Board.

(Statute text not available as of SER due date; legislation substituted)

H.B. No. 865, 81st Regular Session

AN ACT

relating to the establishment of the Texas Invasive Species Coordinating Committee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 7, Government Code, is amended by adding Chapter 776 to read as follows:

CHAPTER 776. TEXAS INVASIVE SPECIES COORDINATING COMMITTEE

Sec. 776.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Texas Invasive Species Coordinating Committee.

(2) "Invasive species" means a species that is not native to an ecosystem and whose introduction to the ecosystem causes or has been demonstrated to cause economic harm, environmental harm, or harm to human health. Humans, domestic and exotic livestock, and non-harmful exotic organisms are not invasive species.

Sec. 776.002. MEMBER AGENCIES. (a) The member agencies of the committee are:

(1) the Department of Agriculture;

(2) the Parks and Wildlife Department;

(3) the State Soil and Water Conservation Board;

(4) the Texas AgriLife Extension Service;

(5) the Texas Forest Service;

(6) the Texas Water Development Board; and

(7) any other state agency added to the committee under Subsection (b).

(b) On the request of a state agency that has an interest in controlling invasive species, the member agencies listed in Subsections (a)(1)-(6) by unanimous agreement may add the agency to the committee.

Sec. 776.003. REPRESENTATIVES. (a) The committee is composed of one representative of each member agency. If an agency's representative is unable to attend a committee meeting or otherwise perform the representative's duties, the agency's alternate representative shall serve in the representative's place.

(b) The administrative head of each member agency:

(1) shall designate one individual to serve as the agency's representative on the committee and one individual to serve as alternate representative;

(2) may change the designated representative or alternate representative at will;

and

(3) after designating or changing the representative or alternate representative, shall promptly notify the committee in writing of the name and position of the new representative or alternate representative.

(c) Service on the committee by a state officer or employee is an additional duty of the representative's office or employment.

Sec. 776.004. DUTIES. (a) The committee shall:

(1) serve as a catalyst for cooperation between state agencies in the area of invasive species control;

(2) facilitate governmental efforts, including efforts of local governments and special districts, to prevent and manage invasive species;

(3) make recommendations to state agencies regarding research, technology transfer, and management actions related to invasive species control;

(4) facilitate the exchange of information so that each member agency is informed of committee plans, recommendations, and proposals for research, education, and implementation of activities to:

(A) prevent, detect, assess, monitor, contain, and control or eradicate invasive species; and

(B) reduce environmental and economic threats and threats to human health from invasive species;

(5) provide a forum for developing coordinated interagency strategies and policies for invasive species control;

(6) provide technical information and input to regional and national invasive species control coordination efforts, including the National Invasive Species Management Plan;

(7) facilitate the review of committee technical decisions and work product by specialists and interested persons; and

(8) report as needed to the governor, lieutenant governor, and speaker of the house of representatives on committee plans, work product, and accomplishments.

(b) Each member agency of the committee shall:

(1) coordinate the agency's invasive species control activities with the committee and relevant coordinating bodies, including the National Invasive Species Council;

(2) share with the committee the agency's technical expertise related to invasive species;

(3) advise the committee of known invasive species threats to natural and agricultural resources; and

(4) cooperate, to the extent allowed by law, in initiatives to obtain appropriations and grants for invasive species control.

Sec. 776.005. BYLAWS. (a) The committee shall adopt bylaws governing the committee's operations.

(b) The bylaws:

(1) must provide a procedure to periodically elect one representative as committee chair;

(2) must provide a procedure to call committee meetings;

(3) must require the committee to meet at least annually; and

(4) may provide for the creation of subcommittees and advisory committees.

Sec. 776.006. STAFF; ATTACHMENT. (a) The committee is administratively attached to the State Soil and Water Conservation Board.

(b) The State Soil and Water Conservation Board shall provide one full-time equivalent employee to serve as committee coordinator.

Sec. 776.007. SUNSET PROVISION. (a) The committee is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires September 1, 2013.

(b) To the extent that Chapter 325 (Texas Sunset Act) places a duty on a state agency subject to review under that chapter, the State Soil and Water Conservation Board shall perform the duty as it relates to the committee.

SECTION 2. Not later than November 1, 2009, the administrative head of each member agency of the Texas Invasive Species Coordinating Committee shall designate the agency's initial representative and alternate representative as provided by Section 776.003, Government Code, as added by this Act.

SECTION 3. Not later than February 1, 2010, the Texas Invasive Species Coordinating Committee shall hold its first meeting and adopt bylaws as required by Section 776.005, Government Code, as added by this Act.

SECTION 4. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 865 was passed by the House on April 22, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 865 on May 14, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 865 was passed by the Senate, with amendments, on May 7, 2009, by the following vote: Yeas 31, Nays 0.

APPROVED: _____

Date

Governor

6. GOVERNMENT CODE CHAPTER 2254. PROFESSIONAL AND CONSULTING SERVICES: Section 2254.021, Relating to soil and water conservation districts being political subdivisions of state government with respect to requirements for professional and consulting services contracts.

SUBCHAPTER B. CONSULTING SERVICES

Sec. 2254.021. DEFINITIONS. In this subchapter:

(1) "Consulting service" means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

(2) "Major consulting services contract" means a consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed \$15,000, or \$25,000 for an institution of higher education other than a public junior college.

(3) "Consultant" means a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity.

(4) "Political subdivision" means:

- (A) a county;
- (B) an incorporated or unincorporated municipality;
- (C) a public junior college;
- (D) a public school district or other educational or rehabilitative district;
- (E) a metropolitan or regional transit authority;
- (F) an airport authority;
- (G) a river authority or compact;
- (H) a regional planning commission, a council of governments, or a similar regional planning agency created under Chapter 391, Local Government Code;
- (I) the Edwards Aquifer Authority or a district governed by Title 4, Water Code;
- (J) a soil and water conservation district;
- (K) a county or municipal improvement district;
- (L) a county road or road utility district;
- (M) a county housing authority;
- (N) an emergency services or communications district;
- (O) a fire prevention district;

- (P) a public health or hospital authority or district;
- (Q) a mosquito control district;
- (R) a special waste district;
- (S) a rural rail transportation district; or
- (T) any other local government or special district of this state.

(5) "State agency" has the meaning assigned by Section 2151.002.

(6) "State governmental entity" means a state department, commission, board, office, institution, facility, or other agency the jurisdiction of which is not limited to a geographical portion of the state. The term includes a university system and an institution of higher education, other than a public junior college, as defined by Section 61.003, Education Code. The term does not include a political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.44(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(11), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 3, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.02, eff. June 20, 2003.

7. HEALTH AND SAFETY CODE CHAPTER 361. SOLID WASTE DISPOSAL ACT:

Section 361.024, Relating to the Texas Commission on Environmental Quality consulting with the State Soil and Water Conservation Board on rulemaking pertaining to establishing minimum standards of operation for the management and control of solid waste.

Sec. 361.024. RULES AND STANDARDS. (a) The commission may adopt rules consistent with this chapter and establish minimum standards of operation for the management and control of solid waste under this chapter.

(b) In developing rules concerning hazardous waste, the commission shall consult with the State Soil and Water Conservation Board, the Bureau of Economic Geology of The University of Texas at Austin, and other appropriate state sources.

(c) The minimum standards set by the commission for on-site storage of hazardous waste must be at least the minimum standards set by the manufacturer of the chemical.

(d) Rules adopted by the commission under Section 361.036 and Sections 361.097-361.108 for solid waste facilities may differ according to the type or hazard of hazardous waste managed and the type of waste management method used.

(e) Rules shall be adopted as provided by Chapter 2001, Government Code. As provided by that Act, the commission must adopt rules when adopting, repealing, or amending any agency statement of general applicability that interprets or prescribes law or policy or describes the procedure or practice requirements of the agency. The commission shall follow its own rules as adopted until it changes them in accordance with that Act.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 899, Sec. 2.06, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 1045, Sec. 8, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), 11.30, eff. Sept. 1, 1995.

8. HEALTH AND SAFETY CODE CHAPTER 366. ON-SITE SEWAGE DISPOSAL SYSTEMS: Section 366.002, Relating to soil and water conservation districts being a “local governmental entity” with respect to defining “authorized agent” for the implementation and enforcement rules for on-site sewage disposal systems.

Sec. 366.002. DEFINITIONS. In this chapter:

(1) "Authorized agent" means a local governmental entity authorized by the commission to implement and enforce rules under this chapter.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3), (4) Repealed by Acts 2001, 77th Leg., ch. 880, Sec. 25(2), eff. Sept. 1, 2001.

(5) "Local governmental entity" means a municipality, county, river authority, or special district, including an underground water district, soil and water conservation district, or public health district.

(6) "Nuisance" means:

(A) sewage, human excreta, or other organic waste discharged or exposed in a manner that makes it a potential instrument or medium in the transmission of disease to or between persons; or

(B) an overflowing septic tank or similar device, including surface discharge from or groundwater contamination by a component of an on-site sewage disposal system, or a blatant discharge from an on-site sewage disposal system.

(7) "On-site sewage disposal system" means one or more systems of treatment devices and disposal facilities that:

(A) produce not more than 5,000 gallons of waste each day; and

(B) are used only for disposal of sewage produced on a site on which any part of the system is located.

(8) "Owner" means a person who owns a building or other property served by an on-site sewage disposal system.

(9) "Sewage" means waste that:

(A) is primarily organic and biodegradable or decomposable; and

(B) generally originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.038, eff. Aug. 12, 1991; Acts 1993, 73rd Leg., ch. 589, Sec. 1 to 3, eff. Aug.

30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1127, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 880, Sec. 25(2), eff. Sept. 1, 2001.

9. HEALTH AND SAFETY CODE CHAPTER 401. RADIOACTIVE MATERIALS AND OTHER SOURCES OF RADIATION: Section 401.111, Relating to the Texas Commission on Environmental Quality consulting with the State Soil and Water Conservation Board on rulemaking for the issuance of licenses under the commission's jurisdiction for new sites for processing or disposal of radioactive substances.

Sec. 401.111. CRITERIA FOR CERTAIN UNSUITABLE NEW SITES. (a) The commission, in adopting rules for the issuance of licenses under the commission's jurisdiction for new sites for processing or disposal of radioactive substances from other persons, shall adopt criteria for the designation of unsuitable sites, including:

(1) flood hazard areas;

(2) areas with characteristics of discharge from or recharge of a groundwater aquifer system; or

(3) areas in which soil conditions make spill cleanup impracticable.

(b) The commission shall consult with the Texas Water Development Board, the State Soil and Water Conservation Board, the Bureau of Economic Geology, and other appropriate state agencies in developing proposed rules. The commission by rule shall:

(1) require selection of sites in areas in which natural conditions minimize potential contamination of surface water and groundwater; and

(2) prohibit issuance of licenses for unsuitable sites as defined by the rules.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.223, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1367, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1332, Sec. 7, eff. June 15, 2007.

10. NATURAL RESOURCES CODE CHAPTER 33. MANAGEMENT OF COASTAL PUBLIC LAND: Section 33.2041, Relating to the State Soil and Water Conservation Board's inclusion on the Coastal Coordination Council.

Sec. 33.2041. COMPOSITION OF COUNCIL; TERMS. (a) The council shall consist of:

(1) the following ex officio members:

(A) the commissioner;

(B) the presiding officer of the Parks and Wildlife Commission or a member of the commission designated by the presiding officer;

(C) the presiding officer of the Texas Natural Resource Conservation Commission or a member of the commission designated by the presiding officer;

(D) a member of the Railroad Commission of Texas appointed by that commission;

(E) the presiding officer of the Texas Water Development Board or a member of the board designated by the presiding officer;

(F) the presiding officer of the Texas Transportation Commission or a member of the commission designated by the presiding officer;

(G) a member of the State Soil and Water Conservation Board appointed by that board; and

(H) the director of the Texas A&M University Sea Grant Program to serve as a nonvoting member; and

(2) the following members to be appointed by the governor with the advice and consent of the senate to serve a two-year term:

(A) a city or county elected official who resides in the coastal area;

(B) an owner of a business located in the coastal area who resides in the coastal area;

(C) a resident from the coastal area; and

(D) a representative of agriculture.

(b) The terms of the positions on the council held by the city or county elected official who resides in the coastal area and the resident from the coastal area expire May 31 of each even-numbered year. The terms of the positions on the council held by the owner of a business located in the coastal area who resides in the coastal area and the representative of agriculture expire May 31 of each odd-numbered year.

(c) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 2001, 77th Leg., ch. 70, Sec. 4, eff. Sept. 1, 2001.

11. NATURAL RESOURCES CODE CHAPTER 33. MANAGEMENT OF COASTAL PUBLIC LAND: Section 33.2051, Relating to the State Soil and Water Conservation Board complying with Sections 33.205(a) and (b) when adopting or amending a rule governing agricultural or silvicultural nonpoint source pollution.

Sec. 33.2051. AGENCY RULEMAKING ACTIONS. (a) The land office shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing the prevention of, response to, or remediation of a coastal oil spill.

(b) The Texas Natural Resource Conservation Commission shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing:

- (1) air pollutant emissions;
- (2) on-site sewage disposal systems; or
- (3) underground storage tanks.

(c) The State Soil and Water Conservation Board shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing agricultural or silvicultural nonpoint source pollution.

(d) An agency shall comply with Sections 33.205(a) and (b) when adopting or amending a rule governing an individual action described by Section 33.2053.

(e) The council may not review a proposed rule of the Texas Department of Agriculture.

Added by Acts 1995, 74th Leg., ch. 416, Sec. 4, eff. June 8, 1995.

12. NATURAL RESOURCES CODE CHAPTER 131. URANIUM SURFACE MINING AND RECLAMATION ACT: Section 131.139, Relating to the State Soil and Water Conservation Board submitting comments on permit applications for mining operations to the General Land Office within 30 days.

Sec. 131.139. SUBMISSION OF APPLICATION TO AGENCIES FOR COMMENT.

(a) The commission immediately shall submit copies of the permit application to the Parks and Wildlife Department, Texas Natural Resource Conservation Commission, General Land Office, Texas Historical Commission, State Soil and Water Conservation Board, Bureau of Economic Geology, Texas Department of Health, and other state agencies whose jurisdiction the commission feels the particular mining operation may affect.

(b) Each of these agencies shall review the permit application and submit any comments the agency cares to make within 30 days of receipt of the application.

(c) An agency's comments shall include an enumeration of permits or licenses required under the agency's jurisdiction.

(d) The comments of each agency shall be made a part of the record and a copy shall be furnished to the applicant.

Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.154, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.274, eff. Sept. 1, 1995.

13. NATURAL RESOURCES CODE CHAPTER 153. PRESCRIBED BURNING: Section 153.041, Relating to the inclusion of the State Soil and Water Conservation Board on the Prescribed Burning Board.

SUBCHAPTER B. PRESCRIBED BURNING BOARD

Sec. 153.041. ESTABLISHMENT. (a) The Prescribed Burning Board is established within the Department of Agriculture and is composed of:

(1) an employee of the Texas Forest Service designated by the director of the Texas Forest Service;

(2) an employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department;

(3) an employee of the Texas Natural Resource Conservation Commission appointed by the executive director of the Texas Natural Resource Conservation Commission;

(4) an employee of the Texas Agricultural Extension Service appointed by the executive director of the Texas Agricultural Extension Service;

(5) an employee of the Texas Agricultural Experiment Station appointed by the director of the Texas Agricultural Experiment Station;

(6) an employee of the Texas Tech University Range and Wildlife Department appointed by the dean of the Texas Tech University College of Agricultural Sciences and Natural Resources;

(7) an employee of the Department of Agriculture appointed by the commissioner of agriculture;

(8) an employee of the State Soil and Water Conservation Board appointed by the executive director of the State Soil and Water Conservation Board; and

(9) five persons who are:

(A) owners of agricultural land, as that term is defined by Section 153.081;

(B) self-employed or employed by a person other than a governmental entity; and

(C) appointed by the commissioner of agriculture.

(b) A member serves for a two-year term.

(c) The board shall, by majority vote, elect a presiding officer from the members of the board.

(d) Appointments to the board shall be made without regard to the race, creed, sex, disability, age, religion, or national origin of the appointees.

(e) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by Subsection (a) for appointment to the board;

(3) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(4) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(f) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Added by Acts 1999, 76th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1999.

14. TAX CODE CHAPTER 23. APPRAISAL METHODS AND PROCEDURES: Section 23.9801, Relating to a management plan for appraisal of restricted-use timber land being consistent with the agricultural and silvicultural nonpoint source pollution management program administered by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.

Sec. 23.9801. DEFINITIONS. In this subchapter:

(1) "Aesthetic management zone" means timber land on which timber harvesting is restricted for aesthetic or conservation purposes, including:

(A) maintaining standing timber adjacent to public rights-of-way, including highways and roads; and

(B) preserving an area in a forest, as defined by Section 152.003, Natural Resources Code, that is designated by the director of the Texas Forest Service as special or unique because of the area's natural beauty, topography, or historical significance.

(2) "Critical wildlife habitat zone" means timber land on which the timber harvesting is restricted so as to provide at least three of the following benefits for the protection of an animal or plant that is listed as endangered or threatened under the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) and its subsequent amendments or as endangered under Section 68.002, Parks and Wildlife Code:

(A) habitat control;

(B) erosion control;

(C) predator control;

(D) providing supplemental supplies of water;

(E) providing supplemental supplies of food;

(F) providing shelters; and

(G) making of census counts to determine population.

(3) "Management plan" means a plan that uses forestry best management practices consistent with the agricultural and silvicultural nonpoint source pollution management program administered by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.

(4) "Regenerate" means to replant or manage natural regeneration.

(5) "Streamside management zone" means timber land on which timber harvesting is restricted in accordance with a management plan to:

(A) protect water quality; or

(B) preserve a waterway, including a lake, river, stream, or creek.

(6) "Qualified restricted-use timber land" means land that qualifies for appraisal as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

15. TRANSPORTATION CODE CHAPTER 223. BIDS AND CONTRACTS FOR HIGHWAY PROJECTS: Section 223.044, Relating to the State Soil and Water Conservation Board entering into a contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision to perform a brush control project described by Subsection (e) or under Chapter 203, Agriculture Code.

Sec. 223.044. INMATE LABOR OR LABOR OF PERSONS PLACED ON COMMUNITY SUPERVISION FOR IMPROVEMENT PROJECTS. (a) The commission may authorize the department to contract with a criminal justice agency or a private correctional facility for the provision of inmate labor or the labor of persons placed on community supervision for a state highway system improvement project.

(b) A contract with a criminal justice agency must be made in conformity with Chapter 771, Government Code.

(c) In this section, "criminal justice agency" includes:

(1) the Texas Department of Criminal Justice;

(2) a community supervision and corrections department established under Chapter 76, Government Code; and

(3) a sheriff's department operating:

(A) a county farm or workhouse established under Article 43.10, Code of Criminal Procedure; or

(B) a county correctional center established under Section 351.181, Local Government Code.

(d) A contract with a private correctional facility under this section may not provide for the transfer of public funds to the private correctional facility for the use of inmate labor.

(e) The commission may authorize the department to contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed

on community supervision for a brush control project, as defined by Section 203.001, Agriculture Code, on an area located on or adjacent to a state highway system improvement project.

(f) The State Soil and Water Conservation Board may also enter into a contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision to perform a brush control project described by Subsection (e) or under Chapter 203, Agriculture Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 795, Sec. 1, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 484, Sec. 1 to 4, eff. Aug. 30, 1999.

16. WATER CODE CHAPTER 5. TEXAS NATURAL RESOURCE CONSERVATION COMMISSION: Section 5.605, Relating to the State Soil and Water Conservation Board participating and providing assistance to the estuary programs in implementing approved comprehensive conservation and management plans.

Sec. 5.605. STATE AGENCY PARTICIPATION. (a) The following state agencies shall participate and provide assistance to the estuary programs in implementing approved comprehensive conservation and management plans:

- (1) the General Land Office;
- (2) the Parks and Wildlife Department;
- (3) the Texas Department of Transportation;
- (4) the Railroad Commission of Texas;
- (5) the State Soil and Water Conservation Board;
- (6) the Texas Water Development Board; and
- (7) the Texas Department of Health.

(b) Other state agencies may participate as necessary or convenient.

Added by Acts 1999, 76th Leg., ch. 287, Sec. 1, eff. Aug. 30, 1999. Renumbered from Sec. 5.555 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(114), eff. Sept. 1, 2001.

17. WATER CODE CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL:
Section 10.003, Relating to the inclusion of the State Soil and Water Conservation Board on the Water Conservation Advisory Council.

Sec. 10.003. CREATION AND MEMBERSHIP. (a) The council is composed of 23 members appointed by the board. The board shall appoint one member to represent each of the following entities or interest groups:

- (1) Texas Commission on Environmental Quality;
- (2) Department of Agriculture;
- (3) Parks and Wildlife Department;
- (4) State Soil and Water Conservation Board;
- (5) Texas Water Development Board;
- (6) regional water planning groups;
- (7) federal agencies;
- (8) municipalities;
- (9) groundwater conservation districts;
- (10) river authorities;
- (11) environmental groups;
- (12) irrigation districts;
- (13) institutional water users;
- (14) professional organizations focused on water conservation;
- (15) higher education;
- (16) agricultural groups;
- (17) refining and chemical manufacturing;
- (18) electric generation;

- (19) mining and recovery of minerals;
- (20) landscape irrigation and horticulture;
- (21) water control and improvement districts;
- (22) rural water users; and
- (23) municipal utility districts.

(b) Each entity or interest group described by Subsection (a) may recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. If one or more persons are recommended for a position on the council, the board shall appoint one of the persons recommended to fill the position.

Added by Acts 2007, 80th Leg., R.S., Ch. 1352, Sec. 3, eff. June 15, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430, Sec. 2.03, eff. September 1, 2007.

18. WATER CODE CHAPTER 15. TEXAS WATER ASSISTANCE PROGRAM: Section 15.613, Relating to the duty of an eligible lending institution obtaining certification of a water quality management plan from the executive director of the State Soil and Water Conservation Board in conjunction with an application for funding under the Safe Drinking Water Revolving Fund administered by the Texas Water Development Board.

Sec. 15.613. CERTIFICATION OF PROJECT. (a) An eligible lending institution must obtain from a director of a soil and water conservation district certification of an agricultural or silvicultural nonpoint source pollution control project proposed for the district. The certification must state that:

(1) the applicant of the proposed project has a water quality management plan certified by the State Soil and Water Conservation Board; and

(2) the project furthers or implements the plan.

(b) An eligible lending institution must obtain from the executive director certification of a proposed nonpoint source pollution control project that is not an agricultural or silvicultural nonpoint source pollution control project. The certification must state that the applicant's proposed project implements the state's nonpoint source pollution management plan.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 19(d), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 4, eff. Sept. 1, 2003.

19. WATER CODE CHAPTER 16. PROVISIONS GENERALLY APPLICABLE TO WATER DEVELOPMENT: Section 16.022, Relating to Texas Water Development Board and the State Soil and Water Conservation Board jointly conducting a study of the ways to improve or expand water conservation efforts and report to the legislature.

Sec. 16.022. WATER CONSERVATION STUDY. (a) The board and the State Soil and Water Conservation Board shall jointly conduct a study of the ways to improve or expand water conservation efforts and report to the legislature.

(b) The report must include:

- (1) an assessment of both agricultural and municipal water conservation issues;
- (2) information on existing conservation efforts by the board and the State Soil and Water Conservation Board;
- (3) information on existing conservation efforts by municipalities receiving funding from the board, as specified in water conservation plans submitted by the municipalities as part of their applications for assistance;
- (4) a discussion of future conservation needs;
- (5) an analysis of programmatic approaches and funding for additional conservation efforts;
- (6) an assessment of existing statutory authority and whether changes are needed to more effectively promote and fund conservation projects; and
- (7) an assessment of the board's agricultural water conservation program.

(c) The report shall be issued as part of, or as a supplement to, the state water plan.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 24, eff. Sept. 1, 2001.

20. WATER CODE CHAPTER 17. PUBLIC FUNDING: Section 17.897, Relating to a “conservation program” under the Agricultural Water Conservation Bond Program of the Texas Water Development Board including programs for on-farm soil and water conservation plans developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code.

Sec. 17.897. CONSERVATION PROGRAM. (a) A conservation program is:

(1) an agricultural water conservation technical assistance program, including a program for an on-farm soil and water conservation plan developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code;

(2) a research, demonstration, technology transfer, or educational program relating to agricultural water use and conservation;

(3) a precipitation enhancement program in an area of the state where the program, in the board's judgment, would be most effective; and

(4) any other agricultural water conservation program defined by board rule.

(b) The costs of a conservation program eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the program.

Added by Acts 1989, 71st Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 200, Sec. 19(m), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 352, Sec. 13, eff. Sept. 1, 2003.

21. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.0135, Relating to watershed monitoring and assessment of water quality by the Texas Commission on Environmental Quality involving agricultural or silvicultural nonpoint source pollution being coordinated through the State Soil and Water Conservation Board with local soil and water conservation districts.

Sec. 26.0135. WATERSHED MONITORING AND ASSESSMENT OF WATER QUALITY. (a) To ensure clean water, the commission shall establish the strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basin of the state. In order to conserve public funds and avoid duplication of effort, subject to adequate funding under Section 26.0291, river authorities shall, to the greatest extent possible and under the supervision of the commission, conduct water quality monitoring and assessments in their own watersheds. Watershed monitoring and assessments involving agricultural or silvicultural nonpoint source pollution shall be coordinated through the State Soil and Water Conservation Board with local soil and water conservation districts. The water quality monitoring and reporting duties under this section apply only to a river authority that has entered into an agreement with the commission to perform those duties. The commission, either directly or through cooperative agreements and contracts with local governments, shall conduct monitoring and assessments of watersheds where a river authority is unable to perform an adequate assessment of its own watershed. The monitoring program shall provide data to identify significant long-term water quality trends, characterize water quality conditions, support the permitting process, and classify unclassified waters. The commission shall consider available monitoring data and assessment results in developing or reviewing wastewater permits and stream standards and in conducting other water quality management activities. The assessment must include a review of wastewater discharges, nonpoint source pollution, nutrient loading, toxic materials, biological health of aquatic life, public education and involvement in

water quality issues, local and regional pollution prevention efforts, and other factors that affect water quality within the watershed. The monitoring and assessment required by this section is a continuing duty, and the monitoring and assessment shall be periodically revised to show changes in the factors subject to assessment.

(b) In order to assist in the coordination and development of assessments and reports required by this section, a river authority shall organize and lead a basin-wide steering committee that includes persons paying fees under Section 26.0291, private citizens, the State Soil and Water Conservation Board, representatives from other appropriate state agencies, political subdivisions, and other persons with an interest in water quality matters of the watershed or river basin. Based on committee and public input, each steering committee shall develop water quality objectives and priorities that are achievable considering the available technology and economic impact. The objectives and priorities shall be used to develop work plans and allocate available resources under Section 26.0291. Each committee member shall help identify significant water quality issues within the basin and shall make available to the river authority all relevant water quality data held by the represented entities. A river authority shall also develop a public input process that provides for meaningful comments and review by private citizens and organizations on each basin summary report. A steering committee established by the commission to comply with this subsection in the absence of a river authority or other qualified local government is not subject to Chapter 2110, Government Code.

(c) The purpose of the monitoring and assessment required by this section is to identify significant issues affecting water quality within each watershed and river basin of the state. Each river authority shall submit quality assured data collected in the river basin to the commission. The commission shall use the data to develop the statewide water quality inventory and other

assessment reports that satisfy federal reporting requirements. The data and reports shall also be used to provide sufficient information for the commission, the State Soil and Water Conservation Board, river authorities, and other governmental bodies to take appropriate action necessary to maintain and improve the quality of the state's water resources. The commission shall adopt rules that at a minimum require each river authority to:

(1) develop and maintain a basin-wide water quality monitoring program that minimizes duplicative monitoring, facilitates the assessment process, and targets monitoring to support the permitting and standards process;

(2) establish a watershed and river basin water quality database composed of quality assured data from river authorities, wastewater discharge permit holders, state and federal agencies, and other relevant sources and make the data available to any interested person;

(3) identify water quality problems and known pollution sources and set priorities for taking appropriate action regarding those problems and sources;

(4) develop a process for public participation that includes the basin steering committee and public review and input and that provides for meaningful review and comments by private citizens and organizations in the local watersheds; and

(5) recommend water quality management strategies for correcting identified water quality problems and pollution sources.

(d) In the appropriate year of the cycle provided by commission rules adopted to implement Section 26.0285, each river authority shall submit a written summary report to the commission, State Soil and Water Conservation Board, and Parks and Wildlife Department on the water quality assessment of the authority's watershed. The summary report must identify concerns relating to the watershed or bodies of water, including an identification of bodies of

water with impaired or potentially impaired uses, the cause and possible source of use impairment, and recommended actions the commission may take to address those concerns. The summary report must discuss the public benefits from the water quality monitoring and assessment program, including efforts to increase public input in activities related to water quality and the effectiveness of targeted monitoring in assisting the permitting process. A river authority shall submit a summary report after the report has been approved by the basin steering committee and coordinated with the public and the commission. A river authority shall hold basin steering committee meetings and shall invite users of water and wastewater permit holders in the watershed who pay fees under Section 26.0291 to review the draft of the work plans and summary report. A river authority shall inform those parties of the availability and location of the summary report for inspection and shall solicit input from those parties concerning their satisfaction with or suggestions for modification of the summary report for the watershed, the operation or effectiveness of the watershed monitoring and assessment program authorized by this section, and the adequacy, use, or equitable apportionment of the program's costs and funds. A river authority shall summarize all comments received from persons who pay fees under Section 26.0291 and from steering committee members and shall submit the report and the summaries to the governor, the lieutenant governor, and the speaker of the house of representatives not later than the 90th day after the date the river authority submits the summary report to the commission and other agencies.

(e) Each local government within the watershed of a river authority shall cooperate in making the assessment under Subsection (a) of this section and in preparing the report by providing to the river authority all information available to the local government about water

quality within the jurisdiction of the local government, including the extraterritorial jurisdiction of a municipality.

(f) If more than one river authority is located in a watershed, all river authorities within the watershed shall cooperate in making the assessments and preparing the reports.

(g) For purposes of this section, solid waste and solid waste management shall have the same meaning as in Chapter 361, Health and Safety Code. Each river authority and local government is authorized and encouraged, but not required, to manage solid waste and to facilitate and promote programs for the collection and disposal of household consumer and agricultural products which contain hazardous constituents or hazardous substances and which, when disposed of improperly, represent a threat of contamination to the water resources of the state. Such programs may include the establishment of a permanent collection site, mobile collection sites, periodic collection events, or other methods which a river authority or local government may deem effective.

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. Irrigation water rights, non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall

adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that program funds are equitably apportioned among basins, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177. The rules concerning the apportionment and assessment of reasonable costs shall provide for a recovery of not more than \$5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of the costs recovered annually toward the commission's overhead costs for the administration of this section and the implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

(i) In this section:

(1) "Quality assured data" means data that complies with commission rules for the water quality monitoring program adopted under Subsection (c)(1), including rules governing the methods under which water samples are collected and analyzed and data from those samples is assessed and maintained.

(2) "River authority" means:

(A) a river authority as defined by Section 30.003 of this code that includes 10 or more counties; and

(B) any other river authority or special district created under Article III, Section 52, Subsection (b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution that is designated by rule of the commission to comply with this section.

(j) Repealed by Acts 2001, 77th Leg., ch. 965, Sec. 3.06, eff. Sept. 1, 2001.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 1, eff. June 7, 1991. Amended by Acts 1993, 73rd Leg., ch. 53, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 316, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 564, Sec. 1.01, eff. June 11, 1993; Acts 1993, 73rd Leg., ch. 746, Sec. 4, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.293, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 553, Sec. 1, eff. June 13, 1995; Acts 1997, 75th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 333, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1082, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 234, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 965, Sec. 3.05, 3.06, 16.03, 16.04, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1351, Sec. 1.24, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1430, Sec. 1.24, eff. September 1, 2007.

22. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.0136, Relating to the Texas Commission on Environmental Quality coordinating all water quality management functions for abating agricultural or silvicultural nonpoint source pollution through the State Soil and Water Conservation Board, as provided by Section 201.026, Agriculture Code.

Sec. 26.0136. WATER QUALITY MANAGEMENT. (a) The commission is the agency with primary responsibility for implementation of water quality management functions, including enforcement actions, within the state. Water quality management functions shall be oriented on a watershed basis in consideration of the priorities identified by river authorities and basin steering committees. The commission by rule shall coordinate the water quality responsibilities of river authorities within each watershed and shall, where appropriate, delegate water quality functions to local governments under Section 26.175 of this code. The State Soil and Water Conservation Board shall coordinate and administer all programs for abating agricultural or silvicultural nonpoint source pollution, as provided by Section 201.026, Agriculture Code.

(b) Nothing in this section is intended to enlarge, diminish, or supersede the water quality powers, including enforcement authority, authorized by law for river authorities, the State Soil and Water Conservation Board, and local governments. Nothing in this section is intended to enlarge, diminish, or supersede the responsibilities of the Texas Agricultural Extension Service and the Texas Agricultural Experiment Station to conduct educational programs and research regarding nonpoint source pollution and related water resource and water quality matters.

(c) The commission shall establish rules to make the optimum use of state and federal funding and grant programs related to water quality programs of the commission.

(d) In this section, "river authority" has the meaning assigned by Section 26.0135(i) of this code.

Added by Acts 1991, 72nd Leg., ch. 294, Sec. 2, eff. June 7, 1991. Amended by Acts 1993, 73rd Leg., ch. 53, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 101, Sec. 2, eff. Sept. 1, 1997.

23. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.121, Relating to the Texas Commission on Environmental Quality authorizing discharges to any water in the state when the discharge complies with a person's certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code.

Sec. 26.121. UNAUTHORIZED DISCHARGES PROHIBITED. (a) Except as authorized by the commission, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the discharge complies with a person's:

(A) certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code; or

(B) water pollution and abatement plan approved by the commission; or

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, the Department of Agriculture, or the Railroad Commission of Texas, in which case this subdivision does not apply.

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the water that might be affected. This subdivision does not apply to any NPDES activity.

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any permit or order of the commission.

(d) Except as authorized by the commission, no person may discharge any pollutant, sewage, municipal waste, recreational waste, agricultural waste, or industrial waste from any point source into any water in the state.

(e) No person may cause, suffer, allow, or permit the discharge from a point source of any waste or of any pollutant, or the performance or failure of any activity other than a discharge, in violation of this chapter or of any rule, regulation, permit, or other order of the commission.

Amended by Acts 1977, 65th Leg., p. 1643, ch. 644, Sec. 2. Renumbered from Sec. 21.251 and amended by Acts 1977, 65th Leg., p. 2207, ch. 870, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.098, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 642, Sec. 4, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 54, Sec. 4, eff. April 29, 1993; Acts 1997, 75th Leg., ch. 1010, Sec. 4.44, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 456, Sec. 8, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 979, Sec. 10, eff. June 18, 1999.

24. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.1311, Relating to the State Soil and Water Conservation Board and its authorized agents being designated as responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source pollution as provided by Section 201.026, Agriculture Code.

Sec. 26.1311. DUTY OF STATE SOIL AND WATER CONSERVATION BOARD.

The State Soil and Water Conservation Board and its authorized agents are responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source pollution as provided by Section 201.026, Agriculture Code.

Added by Acts 1993, 73rd Leg., ch. 54, Sec. 5, eff. April 29, 1993.

25. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.302, Relating to (1) a person who owns or operates a poultry facility being required to implement and maintain a water quality management plan for the facility that is certified by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code, (2) the State Soil and Water Conservation Board being authorized to certify a water quality management plan for a poultry facility that does not use a liquid waste handling system and is required to obtain a permit or other authorization from the commission, and (3) the State Soil and Water Conservation Board not certifying a water quality management plan for a poultry facility located less than one-half of one mile from a business, off-site permanently inhabited residence, or place of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides an odor control plan the executive director determines is sufficient to control odors.

Sec. 26.302. REGULATION OF POULTRY FACILITIES. (a) A person who owns or operates a poultry facility shall ensure that the facility has adequate means or is adequately equipped to handle and dispose of poultry carcasses, poultry litter, and other poultry waste regardless of whether the person owns the poultry.

(b) A person who owns or operates a poultry facility shall implement and maintain a water quality management plan for the facility that is certified by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.

(b-1) The State Soil and Water Conservation Board may certify a water quality management plan for a poultry facility that:

- (1) does not use a liquid waste handling system; and
- (2) is required to obtain a permit or other authorization from the commission.

(b-2) The State Soil and Water Conservation Board in consultation with the Texas Commission on Environmental Quality by rule shall establish criteria to determine the geographic, seasonal, and agronomic factors that the board will consider to determine whether a persistent nuisance odor condition is likely to occur when assessing the siting and construction of new poultry facilities.

(b-3) The State Soil and Water Conservation Board may not certify a water quality management plan for a poultry facility located less than one-half of one mile from a business, off-site permanently inhabited residence, or place of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides an odor control plan the executive director determines is sufficient to control odors. This subsection does not apply to:

(1) a revision of a previously certified and existing water quality management plan unless the revision is necessary because of an increase in poultry production of greater than 50 percent than the amount included in the existing certified water quality management plan for the facility; or

(2) any poultry facility located more than one-half of one mile from a surrounding business, permanently inhabited off-site residence, or place of worship established before the date of construction of the poultry facility.

(c) The commission may bring a cause of action to remedy or prevent a violation of this section.

(d) This section does not affect the authority of the commission to investigate or take enforcement action against an unauthorized discharge under Section 26.121.

Added by Acts 1997, 75th Leg., ch. 1074, Sec. 1, eff. March 1, 1998. Amended by Acts 2001, 77th Leg., ch. 277, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 418, Sec. 4, eff. September 1, 2005.

26. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.403, Relating to the inclusion of the executive director of the State Soil and Water Conservation Board as a member of the Texas Groundwater Protection Committee.

Sec. 26.403. CREATION AND MEMBERSHIP OF TEXAS GROUNDWATER PROTECTION COMMITTEE. (a) The Texas Groundwater Protection Committee is created as an interagency committee to coordinate state agency actions for the protection of groundwater quality in this state.

(b) The commission is designated as the lead agency for the committee and shall administer the activities of the committee.

(c) The committee is composed of:

- (1) the executive director of the commission;
- (2) the executive administrator of the Texas Water Development Board;
- (3) the executive director of the Railroad Commission of Texas;
- (4) the commissioner of health of the Texas Department of Health;
- (5) the deputy commissioner of the Department of Agriculture;
- (6) the executive director of the State Soil and Water Conservation Board;
- (7) the Director of the Texas Agricultural Experiment Station;
- (8) the director of the Bureau of Economic Geology of The University of Texas

at Austin;

(9) a representative selected by the Texas Alliance of Groundwater Districts; and

(10) a representative of the Water Well Drillers and Water Well Pump Installers

Program of the Texas Department of Licensing and Regulation selected by the executive director of the department.

(d) Each member of the committee listed in Subsections (c)(1) through (8) of this section may designate a personal representative from the member's agency to represent the member on the committee, but that designation does not relieve the member of responsibility for the acts and decisions of the representative.

(e) The executive director of the commission shall serve as chairman, and the executive administrator of the Texas Water Development Board shall serve as vice-chairman of the committee.

Added by Acts 1989, 71st Leg., ch. 768, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 77, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 72, Sec. 1, eff. Aug. 30, 1999.

27. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.406, Relating to the State Soil and Water Conservation Board maintaining a public file of all documented cases of groundwater contamination that are reasonably suspected of having been caused by activities regulated by the agency.

Sec. 26.406. GROUNDWATER CONTAMINATION INFORMATION AND REPORTS; RULES. (a) Each state agency having responsibilities related to the protection of groundwater shall maintain a public file of all documented cases of groundwater contamination that are reasonably suspected of having been caused by activities regulated by the agency.

(b) For purposes of this section, the agencies identified as having responsibilities related to protection of groundwater include the commission, the Department of Agriculture, the Railroad Commission of Texas, and the State Soil and Water Conservation Board.

(c) In conjunction with the commission, the committee shall publish not later than April 1 of each year a joint groundwater monitoring and contamination report covering the activities and findings of the committee made during the previous calendar year. The report must:

(1) describe the current status of groundwater monitoring programs conducted by or required by each agency at regulated facilities or in connection with regulated activities;

(2) contain a description of each case of groundwater contamination documented during the previous calendar year and of each case of groundwater contamination documented during previous periods for which enforcement action was incomplete at the time of issuance of the preceding report; and

(3) indicate the status of enforcement action for each case of groundwater contamination that is included in the report.

(d) The committee shall adopt rules defining the conditions that constitute groundwater contamination for purposes of inclusion of cases in the public files and the joint report required by this section.

Added by Acts 1989, 71st Leg., ch. 768, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.296, eff. Sept. 1, 1995.

28. WATER CODE CHAPTER 26. WATER QUALITY CONTROL: Section 26.503, Relating to detailed nutrient utilization plans developed by the State Soil and Water Conservation Board for historical waste application fields within the scope of an individual permit issued or amended by the Texas Commission on Environmental Quality.

Sec. 26.503. REGULATION OF CERTAIN CONCENTRATED ANIMAL FEEDING OPERATION WASTES. (a) The commission may authorize the construction or operation of a new concentrated animal feeding operation, or an increase in the animals confined under an existing operation, only by a new or amended individual permit.

(b) The individual permit issued or amended under Subsection (a) must:

(1) provide for management and disposal of waste in accordance with Subchapter B, Chapter 321, Title 30, Texas Administrative Code;

(2) require that 100 percent of the collectible manure produced by the additional animals in confinement at an expanded operation or all of the animals in confinement at a new operation must be:

(A) disposed of or used outside of the watershed;

(B) delivered to a composting facility approved by the executive director;

(C) applied as directed by the commission to a waste application field owned or controlled by the owner of the concentrated animal feeding operation, if the field is not a historical waste application field;

(D) put to another beneficial use approved by the executive director; or

(E) applied to a historical waste application field that is owned or operated by the owner or operator of the concentrated animal feeding operation only if:

(i) results of representative composite soil sampling conducted at the waste application field and filed with the commission show that the waste application field contains 200 or fewer parts per million of extractable phosphorus (reported as P); or

(ii) the manure is applied, with commission approval, in accordance with a detailed nutrient utilization plan approved by the commission that is developed by:

(a) an employee of the United States Department of Agriculture's Natural Resources Conservation Service;

(b) a nutrient management specialist certified by the United States Department of Agriculture's Natural Resources Conservation Service;

(c) the State Soil and Water Conservation Board;

(d) the Texas Agricultural Extension Service;

(e) an agronomist or soil scientist on the full-time staff of an accredited university located in this state; or

(f) a professional agronomist or soil scientist certified by the American Society of Agronomy.

(c) The commission may approve a detailed nutrient utilization plan approved by the commission that is developed by a professional agronomist or soil scientist certified by the American Society of Agronomy only if the commission finds that another person listed by Subsection (b)(2)(E)(ii) cannot develop a plan in a timely manner.

(d) The commission may not issue a general permit to authorize the discharge of agricultural waste into or adjacent to waters in this state from an animal feeding operation if such waters are within a major sole source impairment zone.

(e) The commission and employees or agents of the commission may enter public or private property at any reasonable time for activities related to the purposes of this subchapter. The commission may enforce this authority as provided by Section 7.032, 7.051, 7.052, or 7.105.

(f) This section does not limit the commission's authority to include in an individual or general permit under this chapter provisions necessary to protect a water resource in this state.

Added by Acts 2001, 77th Leg., ch. 965, Sec. 12.02, eff. Sept. 1, 2001.