

# **IMPLEMENTATION PLAN FOR THE TEXAS HEAVY-DUTY VEHICLE IDLING RULE**

## **Background**

Limiting heavy-duty vehicle idling is one component of the region's 8-Hour Ozone Flex Plan (the "Plan"). It offer emissions reductions and stakeholder groups specifically requested this component of the Plan.

The locally enforced motor vehicle idling limitation rules (30 TAC Chapter 114, Sections 114.510 – 114.512 and 114.517) prohibit vehicles with a gross vehicle weight over 14,000 pounds from idling for more than five consecutive minutes during the period April 1 through October 31, such period being known as the "ozone season;" i.e. that period of time during which the formation of ground level ozone is most likely to occur. The idling limitation rules are applicable only within the jurisdiction of a local government that has signed a Memorandum of Agreement (MOA) with TCEQ to delegate enforcement of the rules to that local government.

Implementation will begin upon adoption of the resolution authorizing this plan. Implementation will largely be based on education and related activities. Enforcement through notices and penalties is available to underscore and reinforce voluntary compliance with the measure.

## **Education and Information:**

- ✓ Publish and distribute a fact sheet and educational brochure that include reasons for the idling limitations, specifics of limitations and information on available anti-idling technologies.
- ✓ Establish an informational hotline for reporting idling violations.
- ✓ Include a fact sheet, educational brochure, and other anti-idling information on the county's website.
- ✓ Send mailings to area businesses, school districts and industry associations, targeting those most likely to be affected by enforcement.

## **Enforcement:**

- ✓ Williamson County will use enforcement procedures that are consistent with section 7.351 of the Texas Water Code or any applicable local government ordinances.
- ✓ Williamson County peace officer training programs will be supplemented with information on regulatory requirements and compliance determination procedures.
- ✓ The public can report violations or suspected violations by calling 512-260-4257.

- ✓ During the April to October ozone season the Williamson County Environmental Program Manager (or designee) will make periodic field visits to areas where idling violations may occur to ensure compliance.
- ✓ Violations will be tracked to help determine rule effectiveness and provide documentation of repeat violations and to identify follow-up tracking for noncompliant sources or organizations.
- ✓ Beginning 30 days following adoption of the anti-idling implementation and enforcement resolution, the driver and/or owner of a heavy-duty vehicle determined to be operating in violation of Rule 114.512 may be issued a Notice of Violation (NOV) describing the activity that caused the violation and noting specific circumstances regarding location, date and identification of the vehicle and driver. The NOV will include a request that the driver/owner respond to the NOV within 20 days of issuance or as specified by any local government ordinance describing corrective action to be taken to prevent recurrence.
- ✓ For repeated violations, Williamson County may issue a Notice of Enforcement (NOE) to the violating entity describing enforcement action to be taken. Action may be taken as authorized under Section 7.351 of the Water Code or any applicable local government ordinances, pursuing injunctive relief and/or civil penalties against the person who committed the violation(s). Recommended penalties sought in civil action will be consistent with Subchapter D of the Texas Water Code.

Exhibits:

- A. Memorandum of Agreement – Early Action Compact – Approved by Williamson County Commissioners Court March 4, 2008
- B. Texas Administrative Code, Title 30, Part 1, Chapter 114 – Control of Air Pollution From Motor Vehicles
- C. Texas Water Code, Chapter 7, Subchapter H. Suit by Others. Section 7.351. Civil Suits.
- D. Texas Water Code, Chapter 7. Subchapter D. Civil Penalties.

## **MEMORANDUM OF AGREEMENT**

### **I. Parties**

This Memorandum of Agreement (MOA) ("Agreement") is entered into between the Texas Commission on Environmental Quality ("TCEQ") and the local governments signing this agreement (Local Governments), collectively, the "Parties."

1. The Parties represent that they have the authority to enter into this MOA, including the authority granted in the Texas Government Code Chapter 791 Interlocal Cooperation Contracts.

2. The TCEQ has authority under Section 5.229 of the Texas Water Code and Section 382.033 of the Texas Health and Safety Code to enter into this MOA.

3. Local Governments have authority under Section 382.115 of the Texas Health and Safety Code to enter into this MOA.

### **II. Intent and Purpose**

The intent of this Agreement is to memorialize both the renewal of the agreement between the original Parties (TCEQ and the Local Early Action Compact (EAC) Signatories) and to acknowledge new Local Governments to the agreement to implement the following rules aimed at the control of air pollution from motor vehicles: 30 Texas Administrative Code ("TAC") Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517.

The Parties, TCEQ and any new Local Governments, enter into this Agreement for the purpose of renewing or ratifying, as applicable, the agreement delegating rule enforcement from TCEQ to the Local Governments and incorporating the emission reductions resulting from the implementation and enforcement of the above-referenced rules into the State Implementation Plan ("SIP").

### **III. Definitions**

As used in this Agreement the following terms have the meanings given below:

1. "EPA" shall mean the U.S. Environmental Protection Agency.
2. "TCEQ" shall mean the Texas Commission on Environmental Quality.
3. "Local Government" has the meaning assigned by 30 TAC Section 114.510.

4. "EAC" means Early Action Compact.
5. "Local EAC Signatories" means the Local Governments that are signatories to the Austin-Round Rock (previously Austin-San Marcos) MSA Memorandum of Agreement with TCEQ and EPA, signed December 18, 2002. These Local Governments are Bastrop, Caldwell, Hays, Travis, and Williamson Counties and the cities of Austin, Bastrop, Elgin, Lockhart, Luling, Round Rock, and San Marcos.
6. "SIP" shall refer to the Texas State Implementation Plan.

#### IV. Background

1. Under Section 110 of the Federal Clean Air Act ("FCAA"), 42 U.S.C. § 7410, each state that has a nonattainment area must submit a SIP to the EPA demonstrating strategies to come into compliance with the National Ambient Air Quality Standards ("NAAQS").

2. Section 110 of the FCAA, 42 U.S.C. § 7410 also requires Texas to submit to the EPA for approval any SIP revisions and to demonstrate that such SIP revisions will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the FCAA, as required by § 110(1) of the FCAA.

3. On June 19, 2002, the EPA approved the *Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-Hour Ozone Standard*, a guidance document developed in coordination with TCEQ that addresses EAC development, implementation and commitments of signatory parties. The EAC concerns attainment of the national eight-hour ozone standard. Early voluntary eight-hour air quality plans can be developed through a Compact between Local, State, and the EPA officials for areas that are in attainment of the one-hour ozone standard but approach or monitor exceedances of the eight-hour standard. Early action plans are incorporated into the SIP.

4. On December 18, 2002, the TCEQ, the EPA, and the Local EAC Signatories entered into the Austin-San Marcos MSA Early Action Compact.

5. On March 29, 2004, the Local EAC Signatories submitted an eight-hour air quality plan to TCEQ and EPA in accordance with the EPA EAC Protocol. The plan contains commitments for numerous locally implemented emission reduction measures as well as several state-assisted measures, including the state heavy duty vehicle idling restrictions, to be implemented and enforced locally.

6. On November 17, 2004, the TCEQ adopted rules concerning locally enforced motor vehicle idling limitations, which are applicable only within the jurisdiction of a Local Government that has signed a Memorandum of Agreement with TCEQ delegating enforcement of the rules. The TCEQ submitted the rules to EPA for approval on December 6, 2004. EPA approved the rules in the Federal Register on April 11, 2005. The rules were effective June 10, 2005.

7. On November 17, 2004, the TCEQ also incorporated most of the Austin-Round Rock MSA EAC Clean Air Action Plan into the SIP. The State submitted the SIP to EPA for approval on December 6, 2004. EPA approval makes the plan's emission reduction measure commitments state and federally enforceable.

8. Parties acknowledge that they have entered into this MOA voluntarily and it shall become binding upon the signature of the Executive Director of TCEQ or his designated representative. In order to comply with continuing vehicle idling commitments of the Austin-Round Rock MSA through December 31, 2013, and safeguard the air resources of the State of Texas, the Parties agree to comply with the terms of this Agreement.

9. The Local Governments understand and agree that the commitments in this Agreement to enforce the idling restrictions in 30 Texas Administrative Code (T.A.C.) Chapter 114, Subchapter J, Division 2 become federally enforceable by the EPA, and by persons using the citizen suits provision of the Federal Clean Air Act (42 U.S.C. § 7604), upon approval of this Agreement.

#### **V. Obligations of Parties**

(A) The Local Government signatories agree as follows:

1. In accordance with the terms of this Agreement but subject to subsection (b) below, the Local Governments agree to implement or to ratify, as appropriate, the following TCEQ rules as stated in the Austin-Round Rock MSA *Implementation Plan for the Texas Heavy-Duty Vehicle Idling Rule*:
  - a. 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517. Changes to these TCEQ rules shall be incorporated into this Agreement without requiring amendment of this Agreement.
  - b. The Local Governments that will not adopt the rules for criminal enforcement purposes under section 7.177 of the Texas Water Code are listed in Attachment A of the Agreement.
2. The Local Governments agree to submit the following information to the TCEQ for the rules listed above not later than forty-five (45) calendar days after the effective date of this MOA.

- a. Detailed description of the plan for implementation of these rules;
  - b. Copies of local ordinances or resolutions adopted by each Local Government's governing body to implement these rules;
  - c. Copies of agreements entered between any Local Government and other units of Local Government for the purpose of the implementation of these rules; and
  - d. Submission of agreements entered between any Local Government and other units of Local Government for the purpose of the implementation of these rules.
3. Copies of any requisite resolutions under Section 7.352 of the Texas Water Code shall be submitted to the TCEQ within fourteen (14) calendar days after passage by the local governing body.

#### **VI. Term and Termination**

Each Local Government shall enter into this Agreement through attachment of a separate signature page to this Agreement. This Agreement will become effective for each Local Government on the later of the TCEQ signature date or the date appearing on the signature page that shall be attached to this Agreement for that Local Government.

This Agreement shall expire on December 31, 2013, unless renewed in writing by mutual agreement of all the Parties. A Party may withdraw from this Agreement at any time upon thirty days written notice to all other Parties to this agreement. Withdrawal by a Local Government does not constitute termination of the entire MOA. This Agreement may be terminated at any time by mutual written consent of the Parties.

#### **VII. Miscellaneous**

This Agreement represents the entire agreement between the TCEQ and the Local Governments and supersedes all other agreements, understandings or commitments, written or oral, relative to the intent of this MOA. Unless expressly provided for in this Agreement, this MOA may not be amended or modified except pursuant to a mutual written agreement executed by each of the Parties.

This MOA shall be governed by and interpreted in accordance with the laws of the State of Texas.

Executed by:

MOA0800002

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

By: \_\_\_\_\_  
Name: Glenn Shankle  
Title: Executive Director

\_\_\_\_\_  
Date

Memorandum of Agreement

Local Government Signature Page

In witness thereof, Williamson County, Texas, through its authorized officer, has made and executed this signature page that shall be attached to the Memorandum of Agreement to Control Air Pollution From Motor Vehicles Through Locally Enforced Vehicle Idling Limits, which is hereby incorporated by reference in its entirety.

Executed by:

County of Williamson, Texas

By: 

Name: Dan A. Gattis

Title: County Judge, Williamson County, Texas

3-4-08

Date



# Texas Administrative Code

Next Rule>>

<b><u>TITLE 30</u></b>	<b>ENVIRONMENTAL QUALITY</b>
<b><u>PART 1</u></b>	<b>TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
<b><u>CHAPTER 114</u></b>	<b>CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES</b>
<b><u>SUBCHAPTER J</u></b>	<b>OPERATIONAL CONTROLS FOR MOTOR VEHICLES</b>
<b><u>DIVISION 2</u></b>	<b>LOCALLY ENFORCED MOTOR VEHICLE IDLING LIMITATIONS</b>
<b>RULE §114.510</b>	<b>Definitions</b>

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Unless specifically defined in the Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act) or in the rules of the commission, the terms used in this subchapter have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Health and Safety Code, Chapter 382; §3.2 of this title (relating to Definitions); §101.1 of this title (relating to Definitions); and §114.1 of this title (relating to Definitions), the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) Idle--The operation of an engine in the operating mode where the engine is not engaged in gear, where the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer for when the accelerator is fully released, and there is no load on the engine.
- (2) Local government--A city, county, municipality, or political subdivision of the state.
- (3) Motor vehicle--Any self-propelled device powered by an internal combustion engine and designed to operate with four or more wheels in contact with the ground, in or by which a person or property is or may be transported, and is required to be registered under Texas Transportation Code, §502.002, excluding vehicles registered under §502.006(c).
- (4) Primary propulsion engine--A gasoline or diesel-fueled internal combustion engine attached to a motor vehicle that provides the power to propel the motor vehicle into motion and maintain motion.

## **RULE §114.511      Applicability**

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The provisions of §114.512 and §114.517 of this title (relating to Control Requirements for Motor Vehicle Idling; and Exemptions) are applicable only within the jurisdiction of a local government that has signed a Memorandum of Agreement with the commission to delegate enforcement of the provisions of this division to that local government.

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**Source Note:** The provisions of this §114.511 adopted to be effective December 9, 2004, 29 TexReg 11355

## **RULE §114.512     Control Requirements for Motor Vehicle Idling**

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(a) No person shall cause, suffer, allow, or permit the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle, as defined in §114.510 of this title (relating to Definitions), is not in motion during the period of April 1 through October 31 of each calendar year.

(b) No driver using the vehicle's sleeper berth may idle the vehicle: in a residential area as defined by Local Government Code, §244.001, in a school zone, within 1,000 feet of a hospital, or within 1,000 feet of a public school during its hours of operation. An offense under this subsection may be punishable by a fine not to exceed \$500. This subsection expires September 1, 2009.

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**Source Note:** The provisions of this §114.512 adopted to be effective December 9, 2004, 29 TexReg 11355; amended to be effective May 17, 2006, 31 TexReg 3900; amended to be effective February 21, 2008, 33 TexReg 1345

## **RULE §114.517     Exemptions**

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The provisions of §114.512 of this title (relating to Control Requirements for Motor Vehicle Idling) do not apply to:

- (1) a motor vehicle that has a gross vehicle weight rating of 14,000 pounds or less and does not have a sleeper berth;
- (2) a motor vehicle that has a gross vehicle weight rating of 14,000 pounds or less, after September 1, 2009;
- (3) a motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control;
- (4) a motor vehicle being used by the United States military, national guard, or reserve forces, or as an emergency or law enforcement motor vehicle;
- (5) the primary propulsion engine of a motor vehicle providing a power source necessary for mechanical operation, other than propulsion, and/or passenger compartment heating, or air conditioning;
- (6) the primary propulsion engine of a motor vehicle being operated for maintenance or diagnostic purposes;
- (7) the primary propulsion engine of a motor vehicle being operated solely to defrost a windshield;
- (8) the primary propulsion engine of a motor vehicle that is being used to supply heat or air conditioning necessary for passenger comfort and safety in vehicles intended for commercial or public passenger transportation, or passenger transit operations, in which case idling up to a maximum of 30 minutes is allowed;
- (9) the primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety while the employee is using the vehicle to perform an essential job function related to roadway construction or maintenance;

(10) the primary propulsion engine of a motor vehicle being used as airport ground support equipment;

(11) the owner of a motor vehicle rented or leased to a person that operates the vehicle and is not employed by the owner; or

(12) a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period and is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available. This subsection expires September 1, 2009.

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**Source Note:** The provisions of this §114.517 adopted to be effective December 9, 2004, 29 TexReg 11355; amended to be effective May 17, 2006, 31 TexReg 3900; amended to be effective February 21, 2008, 33 TexReg 1345

TEXAS WATER CODE  
CHAPTER 7  
SUBCHAPTER H. SUIT BY OTHERS

§ 7.351. CIVIL SUITS. (a) If it appears that a violation or threat of violation of Chapter 16, 26, or 28 of this code, Chapter 361, 371, 372, or 382, Health and Safety Code, a provision of Chapter 401, Health and Safety Code, under the commission's jurisdiction, or Chapter 1903, Occupations Code, or a rule adopted or an order or a permit issued under those chapters or provisions has occurred or is occurring in the jurisdiction of a local government, the local government or, in the case of a violation of Chapter 401, Health and Safety Code, a person affected as defined in that chapter, may institute a civil suit under Subchapter D in the same manner as the commission in a district court by its own attorney for the injunctive relief or civil penalty, or both, as authorized by this chapter against the person who committed, is committing, or is threatening to commit the violation.

(b) If it appears that a violation or threat of violation of Chapter 366, Health and Safety Code, under the commission's jurisdiction or a rule adopted or an order or a permit issued under that chapter has occurred or is occurring in the jurisdiction of a local government, an authorized agent as defined in that chapter may institute a civil suit under Subchapter D in the same manner as the commission in a district court by its own attorney for the injunctive relief or civil penalty, or both, as authorized by this chapter against the person who committed, is committing, or is threatening to commit the violation.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.  
Amended by Acts 1999, 76th Leg., ch. 193, § 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1276, § 14A.845, eff. Sept. 1, 2003.

TEXAS WATER CODE  
CHAPTER 7. ENFORCEMENT  
SUBCHAPTER D. CIVIL PENALTIES

§ 7.101. VIOLATION. A person may not cause, suffer, allow, or permit a violation of a statute within the commission's jurisdiction or a rule adopted or an order or permit issued under such a statute.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.102. MAXIMUM PENALTY. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to Chapter 37 of this code, Chapter 366, 371, or 372, Health and Safety Code, Subchapter G, Chapter 382, Health and Safety Code, or Chapter 1903, Occupations Code, shall be assessed for each violation a civil penalty not less than \$50 nor greater than \$5,000 for each day of each violation as the court or jury considers proper. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to any other matter within the commission's jurisdiction to enforce, other than violations of Chapter 11, 12, 13, 16, or 36 of this code, or Chapter 341, Health and Safety Code, shall be assessed for each violation a civil penalty not less than \$50 nor greater than \$25,000 for each day of each violation as the court or jury considers proper. Each day of a continuing violation is a separate violation.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.  
Amended by Acts 2001, 77th Leg., ch. 376, § 3.03, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 880, § 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, § 14A.844, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262, § 1.09, eff. June 8, 2007.

§ 7.103. CONTINUING VIOLATIONS. If it is shown on a trial of a defendant that the defendant has previously been assessed a civil penalty for a violation of a statute within the commission's jurisdiction or a rule adopted or an order or a permit issued under such a statute within the year before the date on which the violation being tried occurred, the defendant shall be assessed a civil penalty not less than \$100 nor greater than \$25,000 for each subsequent day and for each subsequent violation. Each day of a continuing violation is a separate violation.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.104. NO PENALTY FOR FAILURE TO PAY CERTAIN FEES. A civil penalty may not be assessed for failure to:

(1) pay a fee under Section 371.062, Health and Safety Code; or

(2) file a report under Section 371.024, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.105. CIVIL SUIT. (a) On the request of the executive director or the commission, the attorney general shall institute a suit in the name of the state for injunctive relief under Section 7.032, to recover a civil penalty, or for both injunctive relief and a civil penalty.

(b) The commission, through the executive director, shall refer a matter to the attorney general's office for enforcement through civil suit if a person:

(1) is alleged to be making or to have made an unauthorized discharge of waste into or adjacent to the waters in the state at a new point of discharge without a permit in violation of state law;

(2) has been the subject of two or more finally issued administrative penalty orders for violations of Chapter 26 occurring at the same wastewater management system or other point of discharge within the two years immediately preceding the date of the first alleged violation currently under investigation at that site;

(3) is alleged to be operating a new solid waste facility, as defined in Section 361.003, Health and Safety Code, without a permit in violation of state law;

(4) has been the subject of two or more finally issued administrative penalty orders for violations of Chapter 361, Health and Safety Code, occurring at the same facility within the two years immediately preceding the date of the first alleged violation currently under investigation at that site;

(5) is alleged to be constructing or operating a facility at a new plant site without a permit required by Chapter 382, Health and Safety Code, in violation of state law; or

(6) has been the subject of two or more finally issued administrative penalty orders for violations of Chapter 382, Health and Safety Code, for violations occurring at the same plant site within the two years immediately preceding the date of the first alleged violation currently under investigation at that site.

(c) The suit may be brought in Travis County, in the county in which the defendant resides, or in the county in which the violation or threat of violation occurs.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.106. RESOLUTION THROUGH ADMINISTRATIVE ORDER. The attorney general's office and the executive director may agree to resolve any violation, before or after referral, by an administrative order issued under Subchapter C by the commission with the approval of the attorney general.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.107. DIVISION OF CIVIL PENALTY. Except in a suit

brought for a violation of Chapter 28 of this code or of Chapter 401, Health and Safety Code, a civil penalty recovered in a suit brought under this subchapter by a local government shall be equally divided between:

- (1) the state; and
- (2) the local government that brought the suit.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.108. ATTORNEY'S FEES. If the state prevails in a suit under this subchapter it may recover reasonable attorney's fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.109. PARKS AND WILDLIFE DEPARTMENT JURISDICTION.

(a) If it appears that a violation or a threat of violation of Section 26.121 or a rule, permit, or order of the commission has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the commission under this chapter, may have a suit instituted in a district court for injunctive relief or civil penalties, or both, as authorized by this subchapter, against the person who committed or is committing or threatening to commit the violation.

(b) In a suit brought under this section for a violation that is the proximate cause of injury to aquatic life or wildlife normally taken for commercial or sport purposes or to species on which this life is directly dependent for food, the Parks and Wildlife Department is entitled to recover damages for the injury. In determining damages, the court may consider the valuation of the injured resources established in rules adopted by the Parks and Wildlife Department under Subchapter D, Chapter 12, Parks and Wildlife Code, or the replacement cost of the injured resources. Any recovery of damages for injury to aquatic life or wildlife shall be deposited to the credit of the game, fish, and water safety account under Section 11.032, Parks and Wildlife Code, and the Parks and Wildlife Department shall use money recovered in a suit brought under this section to replenish or enhance the injured resources.

(c) The actual cost of investigation, reasonable attorney's fees, and reasonable expert witness fees may also be recovered, and those recovered amounts shall be credited to the same operating accounts from which expenditures occurred.

(d) This section does not limit recovery for damages available under other laws.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.110. COMMENTS. (a) Before the commission approves an agreed final judgment, consent order, voluntary settlement agreement, or other voluntary settlement agreement, or other voluntary agreement that would finally settle a civil enforcement action initiated under this chapter to which the State of Texas is a

party or before the court signs a judgment or other agreement settling a judicial enforcement action other than an enforcement action under Section 113 or 120 or Title II of the federal Clean Air Act (42 U.S.C. Section 7401 et seq.), the attorney general shall permit the public to comment in writing on the proposed order, judgment, or other agreement.

(b) Notice of the opportunity to comment shall be published in the Texas Register not later than the 30th day before the date on which the public comment period closes.

(c) The attorney general shall promptly consider any written comments and may withdraw or withhold consent to the proposed order, judgment, or other agreement if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of this chapter, the statutes within the commission's jurisdiction, or a rule adopted or an order or a permit issued under such a statute. Further notice of changes to the proposed order, judgment, or other agreement is not required to be published if those changes arise from comments submitted in response to a previous notice.

(d) The attorney general may not oppose intervention by a person who has standing to intervene as provided by Rule 60, Texas Rules of Civil Procedure.

(e) This section does not apply to:

(1) criminal enforcement proceedings; or  
(2) proposed temporary restraining orders, temporary injunctions, emergency orders, or other emergency relief that is not a final judgment or final order of the court or commission.

(f) Chapter 2001, Government Code, does not apply to public comment under this section.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.

§ 7.111. RECOVERY OF SECURITY FOR CHAPTER 401, HEALTH AND SAFETY CODE, VIOLATION. On request by the commission, the attorney general shall file suit to recover security under Section 7.033.

Added by Acts 1997, 75th Leg., ch. 1072, § 2, eff. Sept. 1, 1997.