

# Texas Register

Volume 16, Number 92, December 13, 1991

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**§57.373. Package Labels.**

(a) Each package of commercially protected finfish shall be labeled as to its contents.

(b) The package label shall be placed on the outside of each package and shall contain all of the following information, correctly stated and legibly written:

(1) commercially protected finfish shipping invoice number of the shipment of which the container is a part; and

(2) the number, kind, and weight of whole fish or fillets by species contained in each package except that package labels for shipments of king mackerel and Spanish mackerel are not required to contain the number of fish.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on December 9, 1991.

TRD-9115293 Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Effective date: December 28, 1991

Proposal publication date: October 4, 1991

For further information, please call: 1-800-792-1112, ext. 4863 or (512) 389-4863

**Regulation for Importation of  
Redfish and Speckled  
Seatrout**

**• 31 TAC §§57.374, 57.375, 57.376**

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held November 7, 1991, adopts repeal of §§57.374-57.376, concerning the marking of vehicles transporting red drum and speckled sea trout, without changes to the proposed text as published in the October 4, 1991, issue of the *Texas Register* (16 TexReg 5489). The repeal will comply with the provisions of House Bill 2494, Acts, 72nd Legislature, and to simplify and avoid duplication in the regulations.

The repeal allows new rules and amendments to be adopted in 31 TAC §§57.371-57.376, which protects additional finfish species.

The repeal allows new rules and amendments to be adopted.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, §66.020, which authorizes the Texas Parks and Wildlife Commission to regulate the importation of commercially protected finfish into Texas.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on December 6, 1991

TRD-9115294 Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Effective date: December 28, 1991

Proposal publication date: October 4, 1991

For further information, please call: 1-800-792-1112, ext 4863, or (512) 389-4863

**Part III. Texas Air  
Control Board**

**Chapter 101. General Rules**

**• 31 TAC §101.1**

The Texas Air Control Board (TACB) adopts an amendment to §101.1, concerning definitions, without changes to the proposed text as published in the June 7, 1991, issue of the *Texas Register* (16 TexReg 3128).

The amendment to §101.1 adds a definition for liquid fuel. This definition is added in support of a simultaneous revision to §112.6, concerning Allowable Rates-Liquid Fuel-Fired Steam Generators, which limits the sulfur content of liquid fuel in Harris and Jefferson Counties. The new definition would be consistent with terminology now used by the United States Environmental Protection Agency (EPA).

Public hearings were held in Beaumont on July 1, 1991 and in Houston on July 2, 1991, to consider proposed revisions to TACB Regulation II and the General Rules. One individual supported the entire proposal. No other written or oral testimony was received on this amendment during the comment period which ended July 5, 1991.

The amendments are adopted under the Texas Clean Air Act (TCAA), Texas Health and Safety Code, (Vernon 1990), §382.017, which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on December 4, 1991.

TRD-9115225 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Effective date: December 26, 1991

Proposal publication date: June 7, 1991

For further information, please call: (512) 908-1451

**Chapter 112. Control of Air  
Pollution from Sulfur  
Compounds**

**• 31 TAC §112.6, §112.20**

The Texas Air Control Board (TACB) adopts amendments to §112.6 and §112.20, concerning control of sulfur dioxide. Section

112.6 is adopted with changes to the proposed text as published in the June 7, 1991, issue of the *Texas Register* (16 TexReg 3128). Section 112.20 is adopted without changes and will not be republished. The amendments have been developed to reduce existing and potential exposure to sulfur dioxide in Harris and Jefferson Counties. The primary effect of the amendments is to supersede and remove the permitted flexibility of numerous sources in the two counties which currently enables them to convert from natural gas and/or low sulfur liquid fuels to high sulfur liquid fuels. Removal of the flexibility to utilize high sulfur liquid fuel is expected to help prevent future air quality deterioration.

The amendment to §112.6, concerning allowable rates-liquid fuel-fired steam generators, adds a requirement that limits the sulfur content of liquid fuels combusted in Harris and Jefferson Counties to 0.3 weight percent, and sulfur dioxide emissions from liquid fuel combustion to 150 parts per million by volume (ppmv). Existing stocks of sulfurized fuels above 0.3 weight percent may be co-burned with low sulfur fuels as long as the 150 ppmv emissions limit is achieved. The amendment to §112.20, concerning compliance deadlines, adds a compliance date for the new requirements.

Public hearings were held in Beaumont on July 1, 1991, and in Houston on July 2, 1991 to consider proposed revisions to TACB Regulation II and the general rules. Testimony was received from six commenters during the comment period which ended July 5, 1991. One individual supported the entire proposal. The following discussion addresses the other comments received, all of which concerned the proposed revision to §112.6.

Several commenters, The Greater Houston Partnership; Houston Lighting & Power Company; ProCycle Oil, Inc. (Procycle), requested clarification concerning the use of blended, mixed, or reclaimed fuels as long as the limits of the rule were met. The language of the proposed regulation allows whatever methods industry chooses, including blending, mixing, or co-burning of any fuels, as long as the end result is liquid fuel with a sulfur content not greater than 0.3 percent by weight or emissions of sulfur dioxide not exceeding 150 ppmv. After further review, the staff feels that additional clarification is needed on the requirement of 150 ppmv sulfur dioxide emissions and is recommending the addition of a requirement that the sulfur dioxide emissions be calculated based upon 20% excess air.

Two commenters, ProCycle and Texas Hot Mix Asphalt Pavement Association (Texas Hot Mix), requested clarification on whether the proposed regulations applied to hot mix asphalt kilns, and if so, they requested an exemption. The proposed rules apply to all liquid fuel-fired steam generators, furnaces, or heaters in Harris and Jefferson Counties, including those operated at hot mix asphalt plants. The fuel for hot mix asphalt kilns can be blended, mixed, or co-burned with low sulfur fuels so that the requirements of the regulation are met; however, a specific exemption will not be allowed. Furthermore, this regulation precludes the use of 1.5 weight percent sulfur as allowed in TACB Standard Exemption 99 in Harris and Jefferson Counties.

For purposes of clarification, however, it should be stated that it was not the intent of these proposed revisions to apply to combustion devices related to sulfuric acid plants. Sulfuric acid plants require a high sulfur content to produce the acid.

Texas Hot Mix requested that consideration be given to the fact that hot mix asphalt plants operate intermittently. The intention of the proposed regulations is to establish instantaneous standards for sulfur dioxide emissions. Therefore, it is irrelevant how often a plant operates.

The United States Environmental Protection Agency raised the concern that without the requirement for continuous emissions monitoring there is no method of enforcing the proposed regulation. The addition of continuous emissions monitoring requirements would be more restrictive than the proposed regulation and can not be added without the opportunity for public comment. Revised regulations requiring continuous emissions monitoring for sulfur dioxide emissions will be considered in future rulemaking.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code Annotated (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

#### §112.6. Allowable Rates-Liquid Fuel-Fired Steam Generator.

(a) -(c) (No change.)

(d) No person in Harris or Jefferson Counties may cause, suffer, allow, or permit the use of liquid fuel for combustion from any stationary liquid fuel-fired steam generator, furnace, or heater with a sulfur content greater than 0.3% by weight or emissions of sulfur dioxide from any liquid fuel-fired steam generator, furnace, or heater to exceed 150 ppm, by volume, as calculated based on 20% excess air. The requirements of this subsection are not intended to apply to sulfuric acid plants.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on December 4, 1991.

TRD-9115226 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Effective date: December 26, 1991

Proposal publication date: June 7, 1991

For further information, please call: (512) 908-1451

## Part IX. Texas Water Commission

### Chapter 305. Consolidated Permits

#### Subchapter M. Waste Treatment Inspection Fee Program

The Texas Water Commission adopts amendments to §§305.501, 305.502, and 305.504, the repeal of §305.503, and new §305.503, concerning the waste treatment inspection fee program. New §305.503 is adopted with changes to the proposed text as published in the October 4, 1991, issue of the *Texas Register* (16 TexReg 5492). The amendments to §§305.501, 305.502, and 305.504 are adopted without changes and will not be republished.

The Water Code, §26.0291, authorizes the commission to assess an annual fee against each permittee holding a permit for wastewater treatment or discharge issued under the Water Code, Chapter 26. In determining the revenue to be derived from these assessments, the commission considers the funds available from all authorized sources and the requirements to meet budgeted expenses of the water quality activities to which these fee revenues may be allocated. In determining the amount of the fee, the commission may consider permitting factors such as flow volume, toxic pollutant potential, levels of traditional pollutants, and heat load. In addition, the commission may consider the designated uses and the ranking classifications of the waters affected by discharges from the permitted facility.

Senate Bill 1525, Acts of the 71st Legislature, 1989, amends the Water Code to enable the commission to obtain delegation from the federal government of the national pollutant discharge elimination system (NPDES) regulatory authority in accordance with the Federal Water Pollution Control Act, §402(b). Senate Bill 1525 amends the Water Code, §26.0291 by adding provisions which will be effective upon delegation of NPDES permit authority to the commission. In order to provide the funding necessary to pay the expenses of the commission in administering the NPDES program, Senate Bill 1525 authorizes the commission to increase the maximum allowable annual wastewater facility fee from \$11,000 to \$15,000 and to consider the costs of obtaining and administering the NPDES program, in addition to the other factors, in establishing rates for fee assessments. The commission has previously proposed rules, published December 14, 1990 (15 TexReg 7152), which would have increased all wastewater facility fees and conditionally implemented an incremental fee for designated major permits to fund the NPDES program under the authority of Senate Bill 1525. Due to uncertainties regarding the anticipated funding that would be required for both existing program activities and potential new functions under the NPDES program in the 1992-1993 biennium, this proposal was withdrawn and no action taken. These rules, as adopted, incorporate some authority of Senate Bill 1525 to make certain revisions to the fee program, including increasing the maximum fee, but do not contemplate any

increase in the maximum fee at this time nor any differential treatment of major and minor permits beyond the provisions that are in the current rule. To meet the requirements for funds anticipated during the 1992-1993 biennium, the commission proposes to modify certain features of the rate schedule for determination of wastewater inspection fees and increase the fee rates. In addition, the commission adopts a provision which would increase the maximum annual waste treatment facility fee from \$11,000 to \$15,000. This provision would be effective only upon completion of delegation of NPDES permit authority to the commission by the Environmental Protection Agency.

Under the current rate schedule, each permit for which discharge parameters have been established is assigned a variable number of points based on the values of the specific permit parameters. The point values for permits without variable discharge limitations are set as fixed values by rule. The fee is determined by multiplying the total number of points assigned to a permit by the rate of \$50 per point, up to a maximum of \$11,000. Inactive permits are assessed a uniform fee of \$150, regardless of the applicable permit parameters. All evaporation and land disposal permits are assessed a uniform fee of \$200, regardless of permit type or application rate. Industrial permits are evaluated and assessed fees based on pollutant potential, which is determined by categorizing permitted facilities in groups by standard industrial classification and by type of operation. Municipal (domestic) permits are not currently evaluated on a similar basis for pollutant potential.

Fee assessments for all permits will increase from \$50 to \$70 per point. This generally represents an increase of 40%, except for a permit which might exceed the maximum fee, in which case the increase would be less. In addition, other changes are adopted. The most significant change is the deletion of the fixed value of three points for an inactive permit. Under this rule, inactive permits would be evaluated and rated on the basis of the applicable permit parameters and conditions, regardless of the construction or operational status of the facility. The fee for an inactive permit would be 25% of that for an active permit for fiscal year 1992, increasing to 50% in subsequent years. All permits which do not authorize discharge to surface waters, such as those for evaporation ponds or irrigation systems, currently are assessed a fee on the basis of a set point value of four points, which under the current rate is equivalent to an annual fee of \$200. Under the rule as adopted, industrial and agricultural non-surface water discharge permits would be assigned a set point value of five points; municipal (domestic) non-surface water discharge permits would be assigned set point values of four points for facilities authorized up to 0.1 million gallons per day (mgd) and 10 points for facilities authorized at 0.1 mgd or greater.

Some permits authorize both process wastewater discharges, to which specific discharge limitations apply, and stormwater discharges, without specific discharge limitations. Under current assessment procedures, the authorization for stormwater discharge may not be considered in the determination of the total point values for the permit and the corresponding fee which is to be assessed. The