

TEXAS PARKS AND WILDLIFE DEPARTMENT

EXECUTIVE DIRECTOR ORDER NO. 013-008

Under the provisions of Parks and Wildlife Code, §12.027, if the Texas Parks and Wildlife Commission (the Commission) or the Executive Director of the Texas Parks and Wildlife Department (Executive Director) finds that there is an immediate danger to a species authorized to be regulated by the Department, the Commission or the Executive Director may adopt emergency rules as provided by Government Code, §2001.034.

On June 17, 2013, zebra mussel veligers were confirmed in Lake Bridgeport, an impoundment of the West Fork of the Trinity River in Jack and Wise counties. To protect against immediate damage to species regulated by the department, the Executive Director on June 27, 2013 issued Executive Order No. 013-003, which extended, on an emergency basis, the provisions of 31 TAC §57.972(k) to include the West Fork of the Trinity River above Lake Worth dam, including lakes Worth, Eagle Mountain, and Bridgeport. That emergency rule was withdrawn and replaced by a subsequent emergency amendment of the same rule under Executive Order No. 013-006, which extended the applicability of 31 TAC §57.972(k) to include Lake Belton, Stillhouse Hollow Lake, and the Leon and Lampasas rivers in Bell County from their confluence upstream to Lake Belton and Stillhouse Hollow Lake, as a result of the confirmation of zebra mussels Lake Belton on September 23, 2013. The emergency amendments to §57.972(k) were predicated on the department's authority under Parks and Wildlife Code, §66.007, to regulate the possession of harmful or potentially harmful fish or shellfish except as authorized by permit or rule.

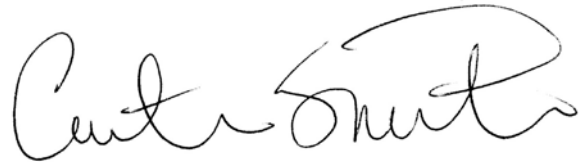
House Bill 124, enacted by the 83rd Texas Legislature (Regular Session), augmented the regulatory authority of the Texas Parks and Wildlife Commission (the commission) by adding Parks and Wildlife Code, §66.0073, to authorize the commission to adopt rules requiring a person leaving or approaching public water to drain from a vessel or portable container on board the vessel any water that has been collected from or has come in contact with public water. To facilitate compliance and enforcement with measures to stop the spread of zebra mussels, the department in November of 2013 adopted new 31 TAC §57.1001 to require water to be drained from boats and receptacles approaching or leaving public water in specific counties, rather than continuing to rely on a regulation that is predicated on proving the possession of an organism that cannot be seen with the unaided eye. Therefore, §57.1001 has replaced §57.972(k), but does not include Bell or Coryell county.

The Executive Director finds that zebra mussels continue to present an immediate danger to species of wildlife regulated by the department (specifically, all indigenous aquatic species whose food supply and/or habitat quality could be altered by zebra mussels, which includes game and nongame fish, and nongame aquatic wildlife such as turtles, and mussels) in Bell and Coryell counties. The need to prevent the spread of zebra mussels to additional impoundments and drainages from the waterbodies where they already are known or suspected to exist creates an imperative necessity to engage in emergency rulemaking. The Executive Director also finds that due to the potential for the rapid spread of zebra mussels, it is necessary to adopt the rules with fewer than 30 days' notice. The Executive Director hereby authorizes the withdrawal of the current emergency rule and adopts, on an emergency basis, an amendment to 31 TAC §57.1001

to extend the applicability of that rule to include Bell and Coryell counties, to be effective immediately upon filing, and authorizes publication of a Notice of Emergency Adoption in the *Texas Register*.

This order is issued pursuant to §12.027 of the Texas Parks and Wildlife Code and is effective immediately.

Signed this the 10th day of December, 2013.

A handwritten signature in black ink, appearing to read "Carter Smith". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Carter Smith
Executive Director
Texas Parks and Wildlife Department