

APR 26 89

Texas Register

Volume 14, Number 30, April 21, 1989

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3 5 874
Texas Register

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Information Available: The eight sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor—appointments, executive orders, and proclamations

Attorney General—summaries of requests for opinions, opinions, and open records decisions

Emergency Sections—sections adopted by state agencies on an emergency basis

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections—sections adopted following a 30-day public comment period

Open Meetings—notices of open meetings

In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows 6 TexReg 2402.

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3."

How To Research: The public is invited to research rules and information, of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

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

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).



Texas Register Publications

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1940–Texas State Library and Archives Commission
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1940–Board of Pardons and Paroles
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1945–University Interscholastic League
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1946–Regional Meetings

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Texas Water Development Board

1952–Applications Received



Name: Casey Scarborough

Grade: 7

School: Sweeny Jr. High, Sweeny

TAC Titles Affected

TAC Titles Affected—April

The following is a list of the administrative rules that have been published this month.

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16 TAC §§9.31, 9.34, 9.46, 9.50, 9.59, 9.61, 9.65—1922

16 TAC §9.36, §9.64—1917

16 TAC §9.53, §9.68—1923

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16 TAC §§9.94, 9.95, 9.98—1925

16 TAC §9.127, §9.132—1925

16 TAC §§9.139, 9.148-9.150, 9.152, 9.157, 9.159-9.161, 9.164-9.170—1926

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16 TAC §303.96—1869

16 TAC §309.307—1869

16 TAC §309.310—1869

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16 TAC §311.172—1861

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19 TAC §§61.145—1707

19 TAC §§69.122, 69.127, 69.129—1897

19 TAC §75.61—1901

19 TAC §75.196—1933

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19 TAC §149.43—1933

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22 TAC §217.11—1708

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22 TAC §281.23—1934

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22 TAC §511.55—1743

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28 TAC §§7.1201-7.1206—1862

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28 TAC §19.703—1721

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28 TAC §§27.801-27.809—1679

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31 TAC §155.10—1821

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31 TAC §375.111—1758

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31 TAC §363.39—1816

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34 TAC §3.329—1736

34 TAC §3.356—1790

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34 TAC §81.7—1898

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Part III. Texas Youth Commission

37 TAC §119.1—1822

37 TAC §119.3—1912

**Part VII. Texas Commission on Law Enforcement
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37 TAC §211.67—1741, 1737

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40 TAC §8.9—1817

40 TAC §§14.401-14.405—1822

40 TAC §14.406—1819

40 TAC §15.100—1824

40 TAC §15.202—1790

40 TAC §15.502—1824

40 TAC §48.2911—1935

40 TAC §§48.2925-48.2927—1681

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40 TAC §115.5—1739

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40 TAC §141.81—1871

40 TAC §153.36, §153.38—1788

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40 TAC §374.1—1935

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43 TAC §§21.31, 21.32, 21.35, 21.37-21.40, 21.42-21.46,
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43 TAC §21.33—1705

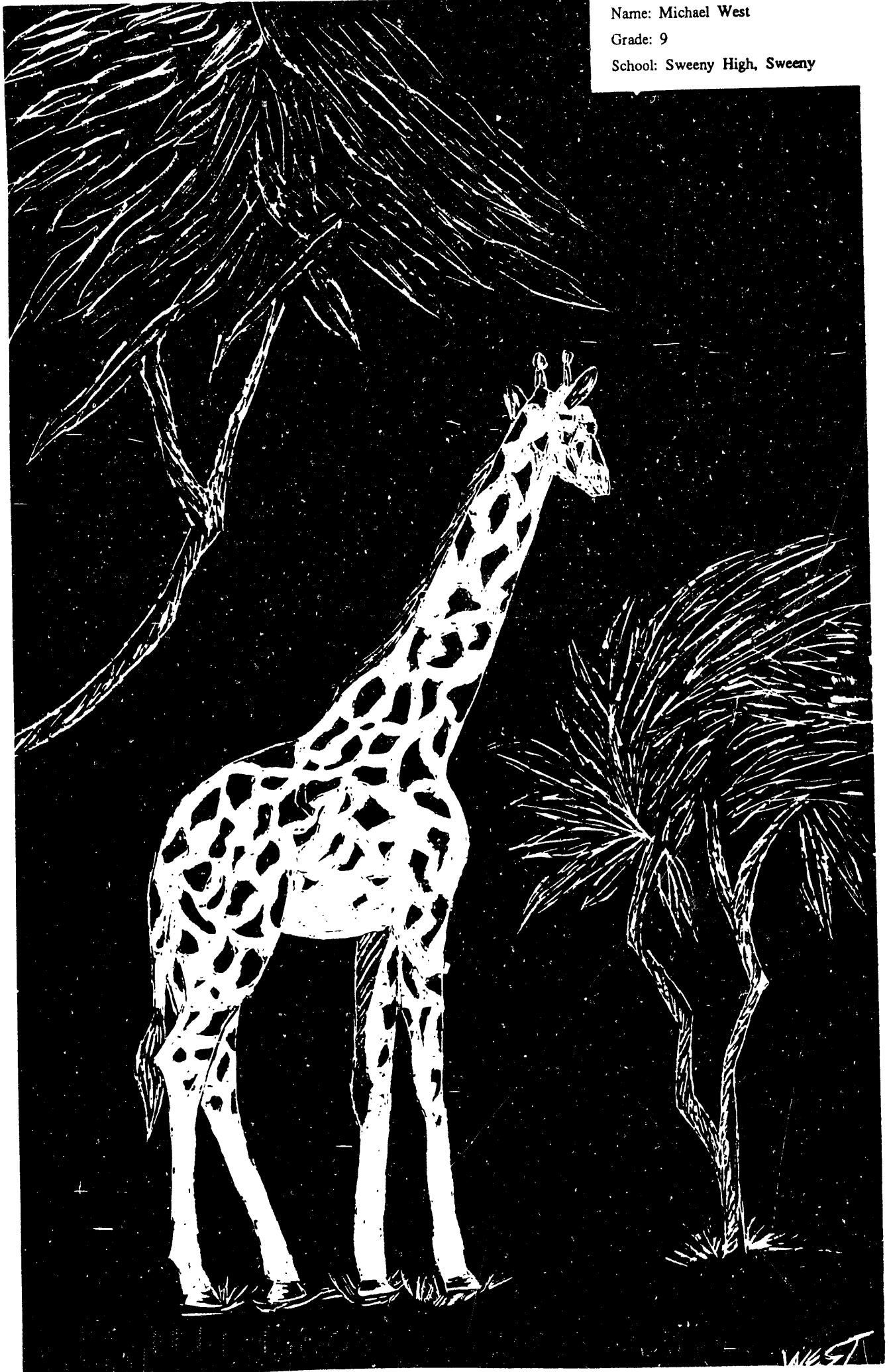
43 TAC §21.33, §21.41—1706



Name: Michael West

Grade: 9

School: Sweeny High, Sweeny



The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made April 12, 1989

To be a member of the **Texas State Board of Public Accountancy** for a term to expire January 31, 1995: Stanley L. Blend, 16427 Axis Trail, San Antonio, Texas 78232. Mr. Blend will be replacing Barbara Shimaitis of Katy, whose term expired.

To be a member of the **Texas State Board of Public Accountancy** for a term to expire January 31, 1995: Ronnie Rudd, 2121 Pelham, Houston, Texas 77019. Mr. Rudd will be replacing Oscar C. Mascorro of San Antonio, whose term expired.

To be a member of the **Texas Board of Architectural Examiners** for a term to expire January 31, 1995: George Ray Rodgers, 301 Hughes Street, Marshall, Texas 75670. Mr. Rodgers will be replacing James E. Buie of Longview, whose term expired.

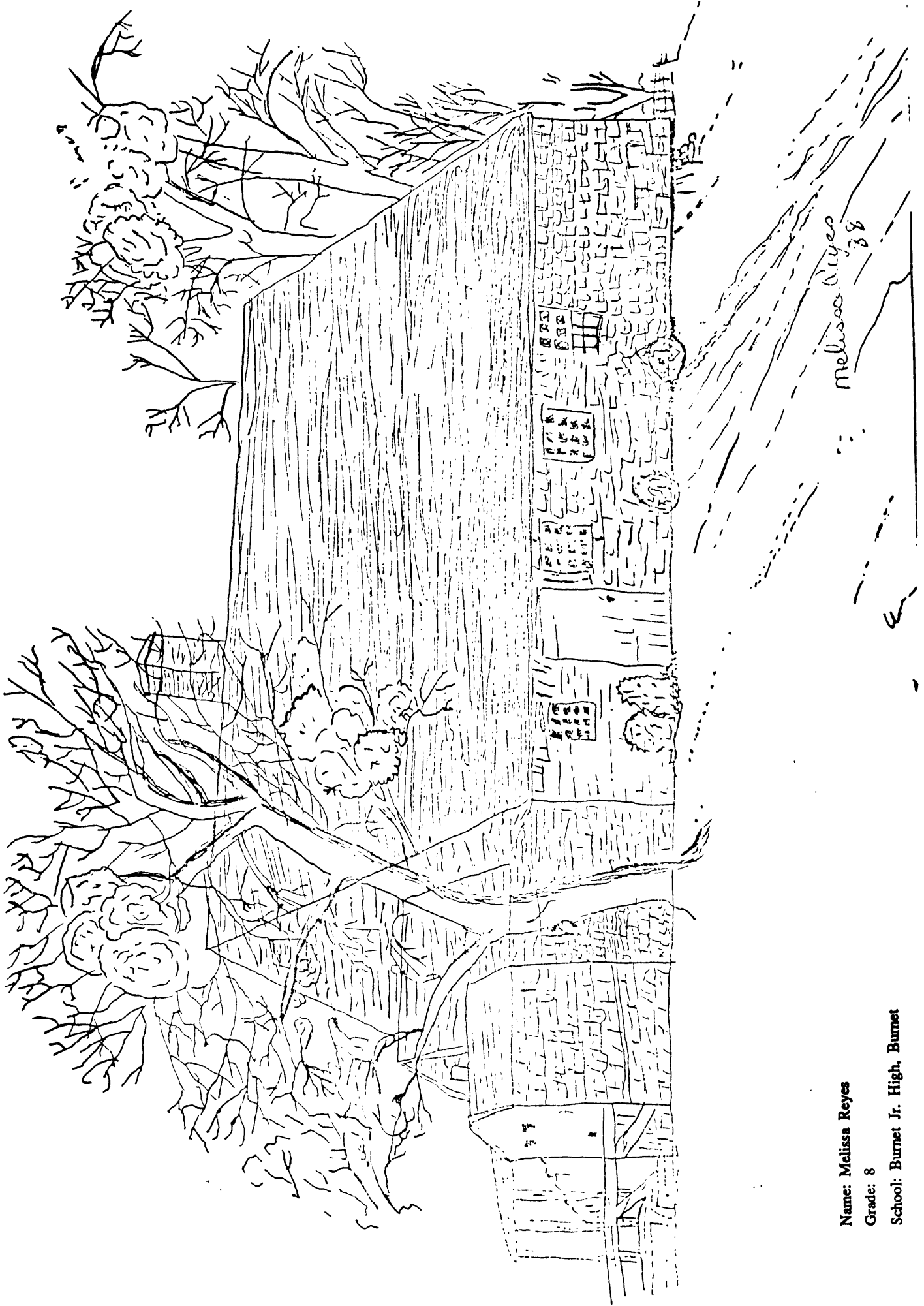
To be a member of the **Texas Funeral Service Commission** for a term to expire January 31, 1995: Russell Wayne Allen, 1112 Trinity Drive, Benbrook, Texas 76126. Mr. Allen will be replacing Henry Thomae, Sr. of San Benito, whose term expired.

Issued in Austin, Texas on April 12, 1989.

TRD-8903332

William P. Clements, Jr.
Governor of Texas





Name: Melissa Reyes

Grade: 8

School: Burnet Jr. High, Burnet

Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Opinions

JM-1035 (RQ-1533). Request from Perry L. Adkisson, Chancellor, Texas A&M University System, College Station, concerning the assessment of Capital Recovery Fees by the city of Houston against Texas A&M University for waste water services.

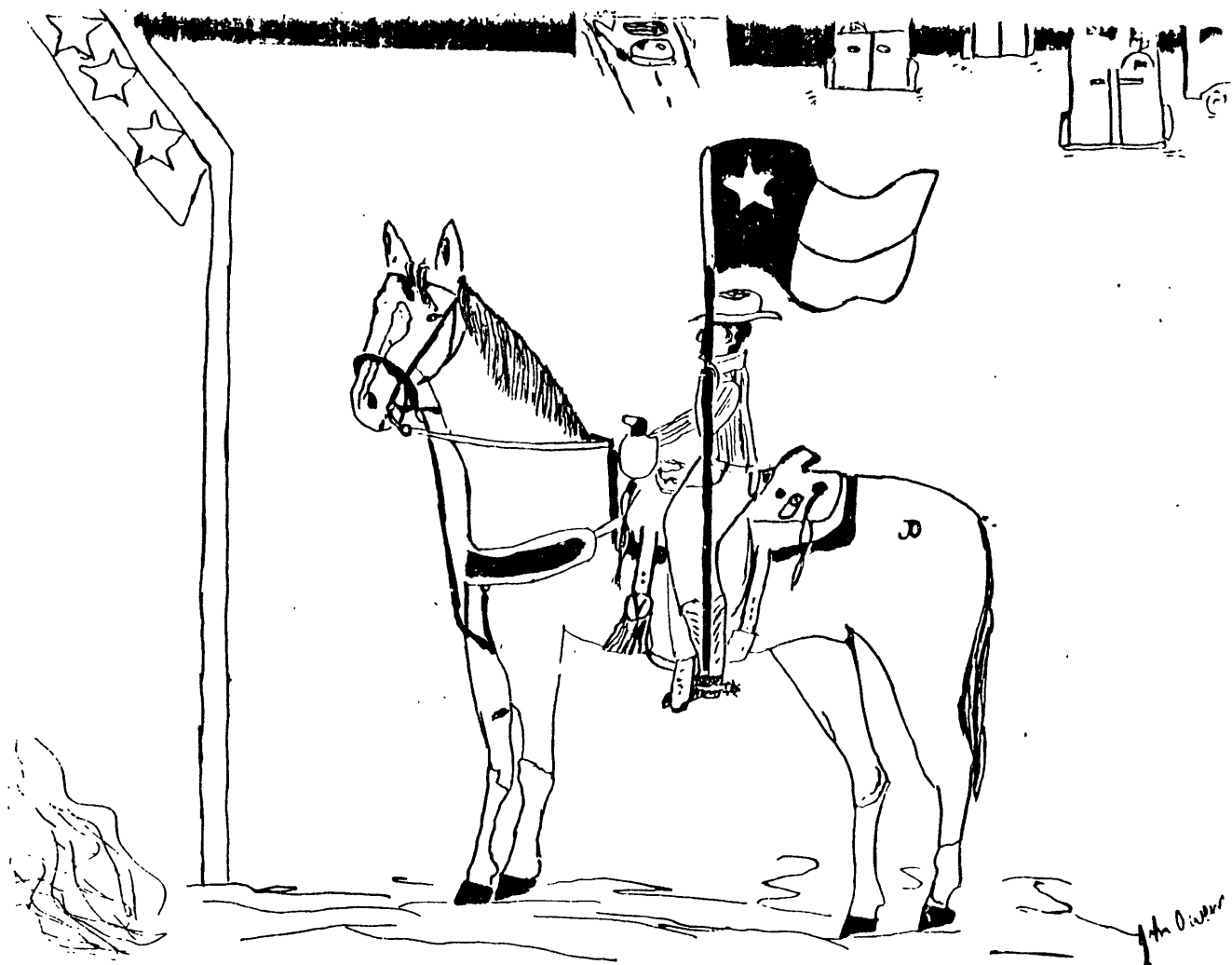
Summary of Opinion. A special assessment is not a tax within Article XI, §9, of the Texas Constitution, which exempts property owned and held for public purposes from taxation. Thus, this provision of the constitution does not prohibit the imposition of a special assessment on a state agency.

In the absence of express statutory authority, a city may not impose a special assessment on a state agency. The Water Code, §26.176(b), provides express authority for the city of Houston to charge users of its sewage disposal system, including a state agency, a capital recovery fee for certain capital costs of the sewage disposal and treatment system. TRD-8903368

JM-1036 (RQ-1540). Request from Mike Driscoll, Harris County Attorney, Houston, concerning the constitutionality of provision of the Code of Criminal Procedure limiting justice court venue based on the size of the county.

Summary of Opinion. A court would probably find a rational basis for the venue restrictions placed by the Code of Criminal Procedure, Article 45.22 on justice of the peace courts in counties with a population of 225,000 or more, and would thus likely find those venue restrictions constitutional under the United States Constitution, Amendment 14, §5, and the Texas Constitution, Article I, §3, and Article III, §57.

Similarly, a court would probably find that the criminal penalty provided for in Article 45.22, §4, for violation of the provisions of that article is constitutional under the Equal Protection Clause of the United States Constitution, and under Article I, §3, of the Texas Constitution. TRD-8903369



Name: John Owens

Grade: 8

School: Burnet Jr. High, Burnet

Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 69. Proprietary Schools and Veterans Education

Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

• 19 TAC §§69.122, 69.127, 69.129

The Texas Education Agency adopts on an emergency basis amendments to §§69.122, 69.127, and 69.129, concerning guidelines and minimum operating standards for Texas proprietary schools. New federal regulations provide that in order for students to be eligible to receive the maximum amount of dollars available via federal grants and/or loans, the institution in which the training is offered must measure courses in credit hours. The new federal regulations also make it necessary for the proprietary schools to reapply to the state for credit hour approval and to receive approval prior to July 1, 1989. The amendments allow a proprietary school to measure its courses in credit hours and would define the conversion rate from clock hours to credit hours. The rate is based on a standard recommended by the national accrediting agencies for proprietary schools. The amendments also provide definitions for certain terms. The Proprietary School Advisory Commission unanimously recommended the amendments at its meeting on January 10, 1989.

The agency finds that imminent peril to the public health and welfare requires the adoption of these amendments on an emergency basis to allow proprietary schools to reapply to the state for credit hour approval and to receive approval prior to July 1, 1989, as required by new federal regulations, and to maintain students eligibility to receive the maximum amount of dollars available via federal grants and/or loans to continue their training.

The amendments are adopted on an emergency basis under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt Policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act after consultation with the Proprietary School Advisory Commission.

§69.122. Definitions. The following words and terms, when used in this subchapter,

shall have the following meanings, unless the context clearly indicates otherwise.

Clock hour—Fifty minutes of instruction during a 60 minute period.

Externship—Practical off-campus training under direct or indirect instructor supervision.

Laboratory experience—A specific experience of observation, experimentation, practice, study, technical investigation, analysis, and practical application of theory or verbal instruction involving hands-on supervised study in a selected vocation or subject. [The practical application of theory in a school setting under instructor supervision.]

Quarter—A period of instruction into which the academic year may be divided. A quarter must be at least 11 weeks in length.

Semester—A period of instruction into which the academic year may be divided. A semester must be at least 16 weeks in length.

Week—Seven calendar days.

§69.127. Minimum Standards for Operation of Proprietary Schools.

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards:

(1)-(5) (No change.)

(6) Instructional programs.

(A)-(G) (No change.)

(H) If the applicant requests approval to measure courses in credit hours for academic purposes, the following conversion table must be used:

(i) schools which schedule their courses on a quarter or semester basis:

(I) One semester credit hour is equal to:

(-a-) one hour of classroom lecture per week for a semester or the equivalent number of hours; or

(-b-) two hours of laboratory experience per week for a semester or the equivalent number of hours; or

(-c-) 48 clock hours of externship.

(II) One quarter credit hour is equal to:

(-a-) one hour of classroom lecture per week for a quarter or the equivalent number of hours; or

(-b-) two hours of laboratory experience per week for a quarter or the equivalent number of hours; or

(-c-) 33 clock hours of externship.

(ii) Schools in which courses are not scheduled on a quarter or semester basis:

(I) one semester credit hour is equal to:

(-a-) 16 clock hours of classroom lecture;

(-b-) 32 clock hours of laboratory experience; or

(-c-) 48 clock hours of externship.

(II) One quarter credit hour is equal to:

(-a-) 11 clock hours of classroom lecture;

(-b-) 22 clock hours of laboratory experience; or

(-c-) 33 clock hours of externship.

(7) (No change.)

(8) Minimum progress and attendance standards.

(A) Progress. Appropriate standards must be implemented to ascertain the progress of the students enrolled. Progress standards must meet the following requirements.

(i) Schools approved on a clock hour basis [The school] must have a progress evaluation system on a maximum of eight [six] weeks [or other intervals acceptable to the director]. Schools approved on a credit hour basis must have a progress evaluation system at mid-term and end-of-term for semester

or quarter or at least every eight weeks for block hour programs.

(ii)-(v) (No change.)

(B) (No change.)

(9)-(14) (No change.)

§69.129. Minimum Standards for Operation of Proprietary Schools Which Grant Associate of Applied Arts, Associate of Applied Science, and Associate of Occupational Studies Degrees.

(a) (No change.)

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1)-(6) (No change.)

(7) Credit hour—A measurement of scholastic attainment earned on the following basis.

(A) Schools which schedule their courses on a standard quarter or semester basis.

(i) One semester credit hour is equal to:

(I)-(II) (No change.)

(III) 48 [40] clock hours of externship [internship].

(ii) One quarter credit hour is equal to:

(I)-(II) (No change.)

(III) 32 [27] clock hours of externship [internship].

(B) Schools in which courses are not scheduled on a standard quarter or semester basis.

(i) One semester credit hour is equal to:

(I) 16 [15] clock hours of classroom lecture;

(II) 32 [30] clock hours of laboratory experience; or

(III) 48 [40] clock hours of externship [internship]

(ii) One quarter credit hour is equal to:

(I) 11 [10] clock hours of classroom lecture;

(II) 22 [20] clock hours of laboratory experience; or

(III) 33 [27] clock hours of externship [internship].

(8) Externship Practical off-campus training under direct or indirect instructor supervision.

(9)[(8)] General education courses—Language, mathematics, history, economics, science, or behavioral science courses or any other courses approved by the director which meet the general education needs of students and which provide the student with foundation and developmental skills appropriate for the occupational objective of the degree.

[(9) Internship—Practical off-campus industrial training under indirect instructor supervision.]

(10) Laboratory experience—A specific experience of observation, experimentation, practice, study, technical investigation, analysis, and practical application of theory or verbal instruction involving hands-on supervised study in a selected vocation or subject. [The practical application of theory in a school setting under instructor supervision and with appropriate laboratory equipment.]

(11) Quarter—A period of instruction into which the academic year may be divided. A quarter must be at least 11 [10] weeks in length.

(12) Semester—A period of instruction into which the academic year may be divided. A semester must be at least 16 [15] weeks in length.

(13) (No change.)

(c) Minimum standards.

(1)-(8) (No change.)

(9) For schools offering AAA, AAS, or AOS degree programs, the progress and attendance standards shall include the following:

(A) a progress evaluation system at least every semester, quarter, or at least every eight weeks [approved grading period] in block-time programs;

(B)-(G) (No change.)

(10)-(17)(No change.)

(d)-(k) (No change.)

Issued in Austin, Texas, on April 12, 1989.

TRD-8903308 W. N. Kirby
Commissioner of Education

Effective date: April 12, 1989

Expiration date: April 10, 1989

For further information, please call: (512) 463-9212

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter A. Automobile Insurance

Certificates of Assumption

• 28 TAC §5.11

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §5.11, for a 60-day period effective April 18, 1989. The text of amended §5.11 was originally published in the February 7, 1989, issue of the *Texas Register* (14 TexReg 652).

Issued in Austin, Texas on April 13, 1989.

TRD-8903366 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 18, 1989

Expiration date: June 17, 1989

For further information, please call: (512) 463-6327

Chapter 25. Insurance Premium Finance

Subchapter H. Annual Reports, Examinations, and Assessments

• 28 TAC §25.713

The State Board of Insurance is renewing the effectiveness of the emergency adoption of amended §25.713, for a 60-day period effective April 20, 1989. The text of amended §25.713 was originally published in the February 10, 1989, issue of the *Texas Register* (14 TexReg 737).

Issued in Austin, Texas on April 13, 1989.

TRD-8903365 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 20, 1989

Expiration date: June 19, 1989

For further information, please call: (512) 463-6327

TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System of Texas

Chapter 81. Insurance

• 34 TAC §81.7

The Employees Retirement System of Texas adopts on an emergency basis on amend-

ment to §81.7. This emergency was made necessary by the termination of the contract between Maxicare North Texas and the Employees Retirement System of Texas.

As a result of this emergency amendment, Maxicare North Texas participants will be enrolled in the Blue Cross and Blue Shield of Texas, Inc.'s insurance program effective April 16, 1989, with an option to enroll in another HMO effective May 1, 1989.

The amendment is adopted on an emergency basis under the Texas Insurance Code, Article 3.50-2, §4, as amended, which provides the board of trustees of the Employees Retirement System of Texas with the authority to adopt rules as it shall deem necessary to insure the proper administration of the Texas Employees Uniform Group Insurance Benefits Act.

§81.7. Enrollment and Participation.

(a)-(e) (No change).

(f) Changes in coverages beyond the first 31 days of eligibility.

(1)-(5) (No change).

(6) Persons wishing to change from one HMO to another HMO in the same service area or change from the insured plan to an HMO will be allowed an annual opportunity to do so. Such opportunity will be scheduled prior to September 1 of each year at times announced by the Employees Retirement System. The pre-existing conditions clause and evidence of insurability provision will not apply in these

cases. Coverages in the new HMO will be effective September 1. Persons in a declined or canceled status may apply for coverages in an HMO for which they are eligible during the annual limited enrollment period. Coverage in the HMO will be effective September 1. An employee in a leave without pay status or extended sick leave without pay status on the first of September may continue the types and amounts of coverage for which the employee was eligible and enrolled on the preceding day. When such employee returns to active duty, the employee may apply for coverages for which the employee would have been eligible during the annual limited enrollment period. An application must be completed by the employee and postmarked or received by the employing agency on or before the first day of the month following the employee's return to active duty for a 30-day period. Coverages applied for under this provision become effective on the first day of the month following the date of application if the employee is on active duty on that date. Notwithstanding the preceding provisions of this paragraph, all Maxicare North Texas participants:

(A) will be enrolled in the insured plan effective April 16, 1989, with the same coverages held immediately prior to the date of change without evidence of insurability. Pre-existing conditions limitations shall not apply;

(B) may elect to change from the insured plan to another approved HMO if the participant lives in the service area of that HMO by completing an application for change by April 28, 1989. Coverage shall become effective on May 1, 1989. The participant must enroll in the same coverages held immediately prior to the date of change. If any HMO has insufficient capacity to accept the number of these participants electing that HMO, the Group Insurance Division of the Employees Retirement System of Texas will assist participants in obtaining health care coverage.

(C) TexFlex rules relating to changes in premium conversion elections shall not apply to changes in health care coverage for all Maxicare North Texas participants.

(7)-(8) (No change).

(g)-(i) (No change).

Issued in Austin, Texas, on April 11, 1989.

TRD-8903249

Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

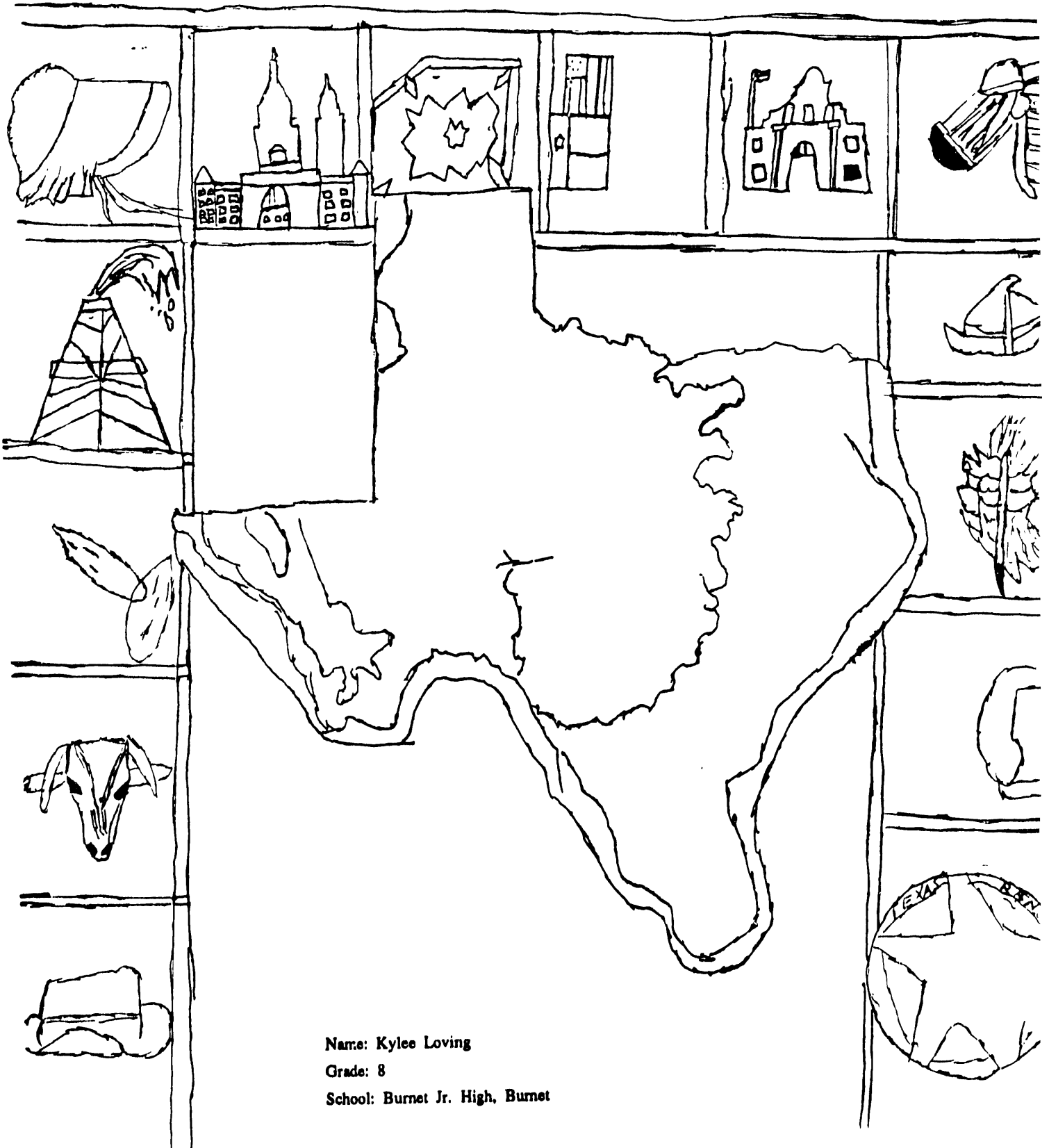
Effective date: April 12, 1989

Expiration date: August 10, 1989

For further information, please call: (512) 476-6431, ext. 213



TEXAS



Name: Kylee Loving
Grade: 8
School: Burnet Jr. High, Burnet

Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter D. Essential Elements-Grades Nine-12

• 19 TAC §75.61

The Texas Education Agency proposes an amendment to §75.61, concerning English language arts. The proposed amendment would allow high school students to obtain up to three state graduation credits for reading improvement coursework. Currently, the Reading Improvement course at the high school level is for one unit of credit.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing this section will be that students in high school who are not on grade level will have the opportunity to acquire necessary skills. There is no anticipated economic cost for individuals who are required to comply with the section.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the well-balanced curriculum.

§75.61. English Language Arts.

(a)-(j) (No change.)

(k) Reading improvement (1/2-3 units [1 unit]). Reading improvement shall include the following essential elements.

(1)-(4) (No change.)

(l)-(ff) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 12, 1989.

TRD-8903356 W. N. Kirby
Commissioner of Education

Proposed date of adoption: June 1, 1989

For further information, please call: (512) 463-9212

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

Subchapter C. Application for Permit

The Texas Water Commission (TWC) proposes amendments to §§305.49, 305.62, 305.66, 305.153, 305.154, and the repeal of §305.152 and §305.159, concerning consolidated permits. The amendments and repeals are proposed to bring the state Underground Injection Control (UIC) Program into conformance with the federal regulations adopted in the July 26, 1988, issue of the *Federal Register* (53 FedReg 28118). The changes are required to meet the treatment standards promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Resources Conservation and Recovery Act (RCRA), §3004(m), for Class I injection wells and to maintain the state's primary enforcement authority for the UIC Program. These treatment standards were promulgated in accordance with the land disposal prohibitions

Section 305.152, concerning corrective action, is proposed to be repealed from this chapter and to be added to Chapter 331, concerning the regulation of underground injection wells under §331.44. The additional requirements for Class I injection wells currently listed at §305.159 are proposed to be repealed and included under §331.66

Roger Bourdeau, chief fiscal officer, has determined that for the first five-year period the section will be in effect, there will not be fiscal implications on state government, local government or small businesses as a result of enforcing or administering these sections.

Mr. Bourdeau also has determined that for

each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be increased environmental protection and more clarity of regulatory authority. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Lisa Montgomery, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Comments will be accepted until 5 p.m., 30 days following the date of this publication. To facilitate public comment on the proposed amendments to Chapter 305, the commission has scheduled a public hearing to receive such comments at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 1149A, on May 5, 1989, at 1 p.m. Persons participating in the public hearing are encouraged to summarize their testimony in written presentations

• 31 TAC §305.49

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides TWC with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019, authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy

§305.49. Additional Contents of Application for an Injection Well Permit.

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

(1)-(3) (No change.)

(4) the manner in which compliance with the [a] plugging and abandonment [plan;] requirements of §331.46 of this title (relating to Plugging and Abandonment Standards) will be attained;

(5) the manner in which compliance with the corrective action requirements of §335.44 of this title (relating to Corrective Action Standards) will be attained;

(6) the manner in which compliance with the post-closure requirements of §331.68 of this title (relating to Post-Closure Care) will be attained:

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

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

(9)[(7)] a complete delineation of any aquifer or portion of an aquifer for which exempt status is sought; and

(10)[(8)] any other information reasonably required by the executive director to evaluate the proposed injection well or project, including, but not limited to, the information set forth in the Texas Water Code, §27. 051(a).

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

(1)-(6) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1989.

TRD-8903414 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 22, 1989

For further information, please call: (512) 463-8087

◆ ◆ ◆
Subchapter D. Amendments,
Renewals, Transfers,
Corrections, Revocation, and
Suspension of Permits

• 31 TAC §305.62, §305.66,

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019 authorizes the TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. The TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission

As such, the TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§305.62. Amendment.

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

(d) Good cause for amendments. The executive director may initiate and the commission may order an amendment to a permit if good cause exists. Good cause includes, but is not limited to the following:

(1)-(5) (No change.)

(6) for underground injection wells, a determination that the waste being injected is a hazardous waste as defined under §335.1 of this title (relating to Definitions) either because the definition has been revised, or because a previous determination has been changed.

(e)-(h) (No change.)

§305.66. Revocation and Suspension.

(a) A permit or other order of the commission does not become a vested right and may be revoked or suspended for good cause at any time by order of the commission after opportunity for a public hearing is given. Good cause includes, but is not limited to, the following:

(1)-(6) (No change.)

(7) for underground injection wells, a determination that the waste being injected is a hazardous waste as defined under §335.1 of this title (relating to Definitions) either because the definition has been revised, or because a previous determination has been changed;

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

(9)[(8)] such other cause sufficient to warrant termination or suspension of the authorization.

(b)-(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1989.

TRD-8903415 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 22, 1989

For further information, please call: (512) 453-8087

Subchapter H. Additional
Conditions for Injection
Well Permits

• 31 TAC §305.152, §305.159

The repeals are proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019, authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§305.152. Corrective Action.

§305.159. Additional Class I Conditions.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1989.

TRD-8903524 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 22, 1989

For further information, please call: (512) 463-8087

◆ ◆ ◆
• 31 TAC §305.153, §305.154

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019, authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§305.153. Financial Responsibility.

(a) (No change.)

(b) The permittee shall secure and maintain a performance bond or other equivalent form of financial assurance or guarantee approved by the commission to ensure the closing, plugging, [and] abandonment, and post-closure care of the injection operation in the manner prescribed by the commission. The assurance may cover more than one well or operation. For new hazardous waste disposal wells, financial security shall be obtained at least 60 days prior to the commencement of drilling operations for the well. For other injection wells, financial security shall be obtained prior to the injection of fluids. In addition to other forms of financial security authorized by this section, an applicant may use the letter of credit form of financial security if either the issuing institution or another institution which generates payment under the letter:

(1)-(2) (No change.)

(c)-(o) (No change.)

§305.154. Standards. Although the commission may impose stricter standards where appropriate, at a minimum, the permittee shall comply with the standards prescribed by Chapter 331 of this title (relating to Underground Injection Control), and the sections referenced herein.

(1)-(7) (No change.)

(8) **Plugging and abandonment.** Section 331.46 of this title (relating to Plugging and Abandonment Standards).

(9) **Post-closure requirements.** Section 331.68 of this title (relating to Post-closure Care).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1989.

TRD-8903418

Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 22, 1989

For further information, please call: (512) 463-8087

◆ ◆ ◆
Chapter 331. Underground Injection Control

Subchapter A. General Provisions

The Texas Water Commission (TWC) proposes amendments to §§331.2, 331.8, 331.10, 331.42, 331.44-331.46, 331.48, 331.62-331.67, 331.121, and new §331.68, concerning underground injection control. The proposed amendments incorporate regulations promulgated by the United States Environmental Protection Agency (EPA)

Environmental Protection Agency (EPA) pursuant to the Federal Resources Conservation and Recovery Act (RCRA) enacted through the Hazardous and Solid Waste Amendments of 1984 (HSWA). The amendments of the underground injection control rules are proposed to be amended to be at least as restrictive as the federal regulations adopted on July 26, 1988, (53 FedReg 28118) referring to 40 Code of Federal Regulations, Parts 124, 144, and 146, the Class I injection well regulations. The changes are required to meet the treatment standards, promulgated pursuant to RCRA, §3004(m) for Class I injection wells, concerning land disposal prohibition. The amendments are also necessary to maintain the state's primary enforcement authority for the Underground Injection Control (UIC) Program. In addition, changes are proposed to clarify and tighten the requirements for Class I wells.

The regulations promulgated in the July 26, 1988, issue of the *Federal Register* (53 FedReg 28118) regarding 40 Code of Federal Regulations, Part 148, the hazardous waste injection restrictions which include the "petition for no migration" requirements, are not included in these proposed amendments.

Section 331.2 is proposed to include those definitions which were promulgated by the EPA. The definition of "existing well" and "new well" were amended to reflect the proposed effective date of the proposed amendments to the state rules.

Section 331.9 is proposed to be amended to include post-closure care requirements for Class I hazardous wells.

Subchapter C, which refers to general standards and methods for all injection wells regulated by the TWC, is proposed to be amended to conform to the federal rules promulgated in the July 26, 1988 issue of the *Federal Register* (53 FedReg 28118). In particular, corrective action standards and plugging and abandonment standards have been added with regard to Class I wells. Corrective action standards are proposed to be removed from 31 Texas Administrative Code (TAC), Chapter 305 and added to Chapter 331, Subchapter C, §331.44, so that the standards relating to injection wells will be under one chapter.

The standards for Class I wells set out under Subchapter D are proposed to be amended to include the more stringent requirements promulgated by the EPA. In particular, casing and cementing standards, fluid seal system standards, well material compatibility standards, and corrosion and ambient monitoring provisions are proposed to be amended to include additional requirements and considerations. Additional requirements and considerations for reporting requirements have been added to §331.65. These proposed amendments are concentrated under the requirements for certification of construction and completion and monthly injection operation reports.

The additional requirements for Class I injection wells currently listed at 31 TAC §305.159 are proposed to be included under the additional requirements promulgated under Subchapter D, §331.66. Other requirements are enumerated in order that the state rules will conform to the EPA promulgation.

New §331.68 is proposed to be added to delineate the post-closure care requirements

for Class I hazardous waste wells. These requirements track the federal regulations.

Subchapter G, which relates to the considerations the TWC must take into account prior to issuing a Class I underground injection well permit, are proposed to be amended to conform to the federal regulations. The majority of the proposed amendments concern corrective action standards, post-closure care requirements, and siting requirements for Class I underground injection wells.

In large part, the proposed amendments track the federal promulgation. However, the proposed amendments are more stringent in two respects. The amendments which are being proposed will govern all Class I wells with the exception of the proposed requirements for post-closure care which pertain only to Class I hazardous waste wells. Additionally, the proposed amendments require the consideration of the potential effects of a Class I well on Underground Sources of Drinking Waters (USDWs) as well as on surface water. "Fresh water", the only consideration required under the current rules, is narrowly defined. The purpose of the proposed amendment is to broaden the scope of consideration of TWC to more closely follow the intent of the Texas Legislature.

Mr. Roger Bourdeau, chief fiscal officer, has determined that for the first five-year period the sections will be in effect, there will be fiscal implications as a result of enforcing or administering these sections.

The estimated additional cost on the state government will be an estimated additional cost of \$5,000 for each fiscal year from 1989-1993. No estimated reduction in cost are anticipated. There will be no direct effect on local government or small business for the first five-year period the sections as proposed are in effect.

Mr. Bourdeau, also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be increased environmental protection and more clarity of regulatory authority.

Comments on the proposal may be submitted to Lisa Montgomery, Staff Attorney, Legal Division, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-3087.

Comments will be accepted until 5 p.m., 30 days following the date of this publication. To facilitate public comment on the proposed amendments to Chapter 331, the commission has scheduled a public hearing to receive such comments at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 1149A, on May 5, 1989, at 1 p.m. Persons participating in the public hearing are encouraged to summarize their testimony in written presentations.

◆ **31 TAC §§331.2, 331.8-331.10**

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides TWC with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019 authorizes TWC to adopt rules and procedures reasonably re-

quired for the performance of its powers, duties under Chapter 27. TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§331.2. Definitions. The following words and terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

Annulus—The space in the wellbore between the injection tubing and the long string casing and/or liner.

Annulus pressure differential—The difference between the annulus pressure and the injection pressure in an injection well.

Commercial facility—A Class I permittee who operates one or more commercial injection wells.

Commercial well—A Class I injection well which disposes of wastes that are generated off-site.

Confining zone—A formation or group of formations between the injection zone and the lowermost Underground Source of Drinking Water (USDW) that acts as a barrier to the upward movement of fluids out of the injection zone.

Cone of influence—Is the area around the injection well within which increased injection zone pressures caused by injection of wastes would be sufficient to drive fluids into a USDW.

Containment interval—That part of the injection zone that inhibits the upward movement of fluids in the injection zone.

[Date of Approval]—The effective date of Environmental Protection Agency original approval of Texas' underground injection control program: January 6, 1982.]

Existing injection well—

(A) Any well or group of wells for which the following occurs before January 1, 1982, [the date of approval]:

(i)-(ii) (No change.)

(B) Any well that is constructed after January 1, 1982, [the date of approval] and represents a continuation of an existing Class III injection well operation or well field.

Fluid—Material or substance which flows or moves whether in a semi-solid, liquid, sludge, gas, or any other form or state.

Hazardous industrial waste—Any industrial solid waste or combination of industrial solid wastes identified or listed as a hazardous waste by the administrator of the

United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, §3001. The administrator has identified the characteristics of hazardous wastes and listed certain wastes as hazardous in 40 Code of Federal Regulations, Part 261[, Subparts C and D, respectively]. The executive director will maintain in the offices of the commission a current list of hazardous wastes, a current set of characteristics of hazardous waste, and applicable appendices, as promulgated by the administrator.

Injection interval—Is that part of the injection zone which actually receives fluids from an injection well through either perforations in the long string casing or screened pipe.

Injection well—A well into which fluids are being injected [a well used for underground injection].

In service—The operational status when an authorized injection well is capable of injecting fluids, including times when the well is shut-in and on standby status.

Liner—An additional casing string typically set and cemented inside the long string casing. Occasionally, used to extend from base of the long string casing to or through the injection zone.

Long string casing or production casing—The second string of casing that is set in a well, usually set to or through the injection zone.

New injection well—Any well or group of wells not an existing injection well, and:

(A) for which construction began after January 1, 1982, [the date of approval]; or

(B) for which operation began before January 1, 1982, [the date of approval] without a permit required by law.

Noncommercial facility—A Class I permittee which operates only noncommercial wells.

Noncommercial well—A Class I injection well which disposes of wastes that are generated entirely on-site.

Off-site—Property which cannot be characterized as on-site.

On-site—The same or geographically contiguous property which may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which the owner controls and to which the public does not have access, is also considered on-site property.

Out of service—The operational status when a well is not authorized to inject fluids, or the well system itself is incapable of injecting fluids for mechanical reasons, maintenance, or well

workovers.

Well—A bored, drilled, or driven shaft, or an artificial opening in the ground made by digging, jetting, or some other method, where the depth of the opening [well] is greater than its largest surface dimension, but the term does not include any surface pit, surface excavation, or natural depression.

§331.8. Application Required for Existing Wells. The owner or operator of an existing injection well shall complete, sign, and submit to the executive director an application for permit in conformance with Chapter 305 of this title (relating to Consolidated Permits). The application shall be submitted according to the following schedule:

(1) for Class I hazardous waste wells, within six months from January 1, 1982, [the date of approval];

(2) for other Class I and for Class III wells, within two years from January 1, 1982, [the date of approval].

§331.9. Injection Authorized by Rule.

(a) Injection into existing Class I and Class III wells is authorized by virtue of this rule, provided compliance with any permit issued before January 1, 1982, [the date of approval] is maintained, provided compliance with the following rules of this chapter is achieved within one year from January 1, 1982, [the date of approval], and provided mechanical integrity is demonstrated within two years from January 1, 1982, [the date of approval] for each individually authorized Class I and III well:

(1) (No change.)

(2) operating, monitoring and reporting: Class I, §331.63 of this title (relating to Operating Requirements); §331.64 of this title (relating to Monitoring Requirements); and §331.65 of this title (relating to Reporting Requirements); Class III, §331.83 of this title (relating to Operating Requirements); §331.68 of this title (relating to Post-Closure Care); §331.84 of this title (relating to Monitoring Requirements); and §331.85 of this title (relating to Reporting Requirements); or §331.103 of this title (relating to Production Area Monitor Wells); §331.104 of this title (relating to Establishment of Baseline and Restoration Values); §331.105 of this title (relating to Monitoring Standards); §331.106 of this title (relating to Remedial Action for Excursion); §331.107 of this title (relating to Restoration); §331.86 of this title (relating to Closure);

(3) (6) (No change.)

(7) post-closure care: §331.68 of this title (relating to Post-Closure Care); and

(8) [(7)] hazardous waste injection wells: §305.156 of this title (relating to Hazardous Waste).

(b) The authorization and requirements of subsection (a) of this section also apply to the construction or operation commencing after January 1, 1982, [the date of approval] of any Class III well that will be part of an existing Class III well field or operation and will represent a continuation of such field or operation, provided a demonstration of mechanical integrity is made and reported to the executive director in accordance with §331.43 of this title (relating to Mechanical Integrity Standards).

(c) Plugging and abandonment of a well authorized by rule at any time after January 1, 1982, [the date of approval] shall be accomplished in accordance with the standards of §331.46 of this title (relating to Plugging and Abandonment Standards).

(d) Post-Closure Care of a hazardous Class I well authorized by rule at any time after January 1, 1982, shall be accomplished in accordance with the standards of §331.68 of this title (relating to Post-Closure Care).

(e)[(d)] Authorization under subsections (a) and (b) of this section shall expire:

(1)-(2) (No change.)

(3) the date five years after January 1, 1982, [the date of approval], unless a complete application for permit is pending.

(f)[(e)] Injection into Class V Wells, unless otherwise provided herein is authorized by virtue of this rule; injection into new Class V wells used for the disposal of over 1,000 gallons per day of sewage or sewage effluent must apply for and obtain a permit from the commission prior to operations.

(g)[(f)] The executive director may require the owner or operator of an injection well authorized by rule to apply for and obtain an injection well permit. The owner or operator shall submit a complete application within 90 days after the receipt of a letter from the executive director requesting that the owner or operator of an injection well submit an application for permit. Cases for which a permit may be required include, but are not limited to:

(1) (3) (No change.)

(h)[(g)] For Class III injection wells authorized by rule, the executive director is authorized to waive requirements consistent with the provisions of §331.48 of this title (relating to Waiver of Requirements).

§331.10. Inventory of Wells Authorized by Rule.

(a) Within one year after January 1, 1982, [the date of approval] or prior to construction, the owner, operator, and driller of an injection well facility shall

submit to the executive director an inventory for each facility containing:

(1)-(5) (No change.)

(b)-(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1989.

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Jim Haley
Director, Legal Division
Texas Water Commission

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For further information, please call: (512) 463-8087

Subchapter C. General Standards and Methods

• 31 TAC §§331.42, 331.44-331.46, 331.48,

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides TWC with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019 authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers, duties under Chapter 27 TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§331.42. Area of Review.

(a) (No change.)

(b) The area of review is:

(1) for Class I wells, an area determined by a radius of 2 1/2 miles from the proposed or existing wellbore, or the area within the cone of influence, whichever is greater;

(2) (3) (No change.)

(c) After an appropriate review, the commission may modify the area of review. In no event shall the boundary of an area of review be less than 2 1/2 miles for Class I wells or 1/4 mile from any other injection well covered by the appropriate authorization. The following factors are to be included in the review

(1) (4) (No change.)

(d) (No change.)

§331.44. Corrective Action Standards.

(a) Corrective action standards for all wells. In determining the adequacy of corrective action proposed [under §305.152(a) of this title (relating to Corrective Action)] or required to prevent or correct pollution of Underground Sources of Drinking Waters or surface [fresh] water [under §305.152(a) of this title (relating to Corrective Action)], the following factors will be considered:

(1)-(6) (No change.)

(7) abandonment procedures in effect at the time a well was abandoned; [and,]

(8) hydraulic connections with Underground Sources of Drinking Waters and surface [fresh] water;[.]

(9) reliability of the procedures used to identify abandoned wells; and

(10) any other factors which might affect the movement of fluids into or between USWDs.

(b) Additional corrective action standards for Class I wells.

(1) For such wells within the area of review which are in the opinion of the executive director inadequately constructed, completed, or abandoned, or for which plugging or completion information is unavailable, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluids into or between USWDs. Where such a plan is adequate, the commission shall incorporate it into the permit as a condition. Where the executive director's review of an application indicates that the permittee's plan is inadequate the executive director shall:

(A) require the applicant to revise the plan;

(B) prescribe a plan for corrective action as a condition of the permit; or

(C) deny the application.

(2) The criteria of §331.44(a) of this title (relating to Corrective Action Standards) will be used to determine adequacy.

(3) Any permit issued for a Class I well which was authorized prior to August 25, 1982 by an approved state program or an EPA-administered program or a well which has become a Class I well as a result of a change in the definition of the injected waste which would render the waste hazardous under §331.2 of this title (relating to Defini-

tions) and which require corrective action other than pressure limitations shall include a compliance schedule requiring any corrective action accepted or prescribed under this section. Any such compliance schedule shall provide for compliance no later than two years following issuance of the permit and shall require observance of appropriate pressure limitations under paragraph (4) of this subsection until all other corrective action measures have been implemented.

(4) As part of the corrective action plan, the commission may impose an injection pressure limitation that does not cause the pressure in the injection zone to exceed hydrostatic pressure in those wells described in subsection (a) of this section, which condition shall expire upon adequate completion of all corrective action measures.

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

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

§331.45. Certification of Construction and Completion. The executive director will certify construction and completion for an injection well or project which is constructed and completed in compliance with the requirements of the permit. In making a determination whether to make such certification, the following shall be considered:

(1) for Class I wells:

(A) actual as-built drilling and completion data on the well;

(B)(A) logging and testing program data on the well;

(C)(B) a demonstration of mechanical integrity;

(D)(C) anticipated maximum pressure and flow rate at which the permittee will operate [operating data];

(E)(D) the results of the injection zone and confining zone testing program as required in §331.121 of this title (relating to Class I Wells) [formation testing program];

(F)(E) the injection procedure;

(G)(F) the compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone and materials used to construct the well; [and]

(H) the calculated area of review based on data obtained during logging and testing of the well and the formation, and where necessary revisions to the information submitted under §331.121 of this title (relating to Class I Wells); and

(I)(G) the status of corrective action required for defective wells in the area of review;

(2) (No change.)

§331.46. Plugging and Abandonment Standards.

(a) For Class I wells, prior to closing the well, the owner or operator shall observe and record the pressure decay for a time specified by the executive director. The executive director shall analyze the pressure decay and the transient pressure observations conducted pursuant to §331.121 of this title (relating to Class I Wells) and determine whether the injection activity has conformed with predicted values.

(b) Prior to well closure, appropriate mechanical integrity testing shall be conducted to ensure the integrity of that portion of the long string casing and cement that will be left in the ground after closure. Testing methods may include:

(1) pressure tests with liquid or gas;

(2) radioactive tracer surveys;

(3) noise, temperature, pipe evaluation, or cement bond logs; and

(4) any other test required by the executive director.

(c) Prior to well closure, the well shall be flushed with a buffer fluid.

(d)(a) Prior to abandoning Class I and III wells the well shall be plugged with cement in a manner which will not allow the movement of fluids out of the injection zone either into or between USWDs [freshwater aquifers].

(e)(b) The permittee shall notify the executive director before commencing plugging and abandonment according to an approved plan. For Class I wells this notice shall be given at least 60 [30] days before commencement. The executive director will review any revised, updated or additional plugging and abandonment plans.

(f)(c) Placement of the cement plugs shall be accomplished by an approved method that may include one of the following:

(1) (No change.)

(2) the dump bailer method; [or,

(3) the two-plug method; or

(4) an alternate method, approved by the executive director, that will reliably provide a comparable level of protection.

(g)(d) Prior to plugging, the well to be abandoned shall be in a state of static equilibrium with the mud or fluid weight equalized top to bottom, either by circulating the mud or fluid in the well at least once or by a comparable method prescribed by the executive director.

(h) Each plug used shall be appropriately tagged and tested for seal and stability before closure is completed.

(i)(e) The plugging and abandonment plan shall, in the case of a Class III production zone which underlies or is in an exempted aquifer, also demonstrate that no movement of contaminants that will cause pollution from the production zone into a freshwater aquifer will occur. The commission shall prescribe aquifer cleanup and monitoring where deemed necessary and feasible to insure that no migration of contaminants that will cause pollution from the production zone into a freshwater aquifer will occur.

(j)(f) The following shall be considered in determining the adequacy of a plugging and abandonment plan for Class I and III wells:

(1)-(6) (No change.)

(7) geologic or economic conditions; [and]

(8) the amount, size, and location by depth of casings and any other materials left in the well;

(9) the method and location where casing is to be parted if applicable;

(10) the estimated cost of the plugging procedure; and

(11)(8) such other factors that may affect the adequacy of the plan.

(k) A monument or other permanent marker shall be placed at or attached to the plugged well prior to abandonment. The monument shall state the TWC permit number, date of abandonment, and company name.

(l) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, must record a notation on the deed to the facility property or on some other instrument

which is normally examined during title search that will, in opportunity, provide any potential purchaser of the property the following information:

(1) the fact that land has been used to manage hazardous waste:

(2) the name of the state agency or local authority with which the plat was filed, as well as the Austin address of the Underground Injection Control (UIC) unit of the TWC to which it was submitted;

(3) the type and volume of waste injected, the injection interval or intervals into which it was injected, and the period over which injection occurred.

(m)[(g)] Within 30 days after completion of plugging, the permittee shall file with the executive director a plugging report on forms provided by the commission.

§331.48. Waiver of Requirements.

(a) When injection does not occur into, through, or above an underground source of drinking water, the commission, by permit, may authorize a well with less stringent requirements than those required in this chapter [and Chapter 305 of this title (relating to Consolidated Permits)] to the extent that the less stringent requirements will not result in an increased likelihood of movement of fluid that may pollute Underground Sources of Drinking Waters and surface [fresh] water.

(b) When injection occurs and a cone of depression centered at the well or well field is maintained for the injection zone, the commission by permit may authorize a well with less stringent requirements for operation, monitoring, and reporting than those required in this chapter [and Chapter 305 of this title (relating to Consolidated Permit Regulations)] to the extent that the less stringent requirements will not result in an increased likelihood of movement of fluid that may pollute Underground Sources of Drinking Waters and surface [fresh] water.

(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Subchapter D. Standards for Class I Wells

• 31 TAC §§331.62-331.68

The amendments and new section are proposed under the Texas Water Code, §5.103 and §5.105, which provides TWC with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019 authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers, duties under Chapter 27. TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§331.62. Construction Standards.

(a) Plans and specifications. Except as specifically required in the terms of the disposal well permit, drilling and completion of the well shall be done in accordance with all permit application plans and specifications. Any proposed changes to the plans and specifications must be certified in writing by the executive director that said changes provide protection standards equivalent to or greater than the original design criteria.

(b)[(a)] Casing and cementing. All Class I wells shall be cased and all casings cemented to the surface to prevent the movement of fluids into or between Underground Sources of Drinking Waters [freshwater aquifers], and to prevent potential leaks of fluids from the well. Cementing shall be by the pump and plug or other method approved by the commission, and cement circulated shall be of a volume equivalent to at least 120% of the calculated volume needed [and a sufficient amount of cement shall be used] to fill the annular space between the hole and casing and between casing strings to the surface of the ground. The casing and cement used in the construction of each newly drilled [new injection] well shall be designed for the life expectancy of the well, including the post closure care. Surface casing shall be set to a minimum subsurface depth determined by the executive director to properly protect USDWs [freshwater strata]. At least one long string casing, using a sufficient number of centralizers, shall extend to the injection zone. In determining and specifying casing and cementing requirements, the following factors shall be considered:

- (1) depth of lowermost USDW;
- (2)[(1)] depth to the injection zone;

(3)[(2)] injection pressure, external pressure, internal pressure, and axial loading;

(4)[(3)] hole size;

(5)[(4)] size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material) ;

(6) the maximum burst and collapse pressures, and tensile stresses which may be experienced at any point along the length of the casings at any time during the construction, operation, and closure of the well;

(7)[(5)] corrosive effects of injected fluid, formation fluids, and temperatures;

(8)[(6)] lithology of injection and confining intervals; [and]

(9)[(7)] types and grades of cement; and,

(10) quantity and chemical composition of the injected fluid.

(c)[(b)] Tubing and packer. All Class I injection wells shall inject fluids through tubing with either a packer or a fluid seal system approved by the commission. In determining and specifying requirements for tubing, packer or a fluid seal system, the following factors shall be considered:

(1)-(4) (No change.)

(5) rate, temperature, and volume of injected fluid; [and]

(6) size of casing, and [.]

(7) tensile, burst, and collapse strengths of the tubing.

(d) Fluid seal systems. Approval of fluid seal systems may be allowed providing the following additional conditions are met:

(1) the operator demonstrates that the seal will provide a level of protection comparable to a packer;

(2) the operator demonstrates that the staff is, and will remain, adequately trained to operate and maintain the well and to identify and interpret variations in parameters of concern;

(3) the permit contains specific limitations on variations in annular pressure and loss of annular fluid;

(4) the design and construction of the well allows continuous monitoring of the annular pressure and mass balance of annular fluid; and

(5) a secondary system is used to monitor the interface between the annulus fluid and the injection fluid and the permit contains requirements for testing the system every three months and recording the results.

(e)[(c)] Logs and tests.

(1) Integrity testing. Appropriate logs and other tests shall be conducted during the drilling and construction of Class I wells. All logs and tests shall be interpreted by the service company which processed the logs or conducted the test; or by other qualified persons. A minimum of the following logs and tests shall be conducted:

(A) (No change.)

(B) for surface casing:

(i) spontaneous potential, resistivity [or gamma-resistivity], natural gamma, and caliper logs before the casing is installed; and

(ii) cement bond with variable density log, temperature logs; and

(C) for intermediate and long string casing:

(i) spontaneous potential, resistivity [or gamma-resistivity], natural gamma, compensated density and/or neutron porosity, fracture finder, and caliper logs, before the casing is installed; and

(ii) a cement bond with variable density log, [a gamma-ray (full hole) log,] casing inspection, and temperature logs, and an inclination survey.

(D) a mechanical integrity test consisting of:

(i) a pressure test with liquid or gas, and a radioactive tracer survey; and

(ii) a temperature, noise, and/or casing inspection log, if required by the executive director; and

(iii) any other test required by the executive director.

(2) Pressure tests. Surface casing shall be pressure tested to 1000 psig for 30 minutes, and long string casing shall be tested to 1500 psig for 30 minutes unless otherwise [All casing strings shall be pressure tested at conditions] specified by the executive director.

(3)-(5) (No change.)

(f) Compatibility. All well materials must be compatible with fluids with which the materials may be expected to come into contact. A well shall be deemed to have compatibility as long as the materials used in the construction of the well meet or exceed standards developed for such materials by the American Petroleum Institute (API), The American Society for Testing Materials (ASTM), or comparable standards acceptable to the executive director.

(g) Surface facilities.

(1) The injection pump system shall be designed to assure that the surface injection pressure limitations authorized by the well permit are never exceeded.

(2) Instrumentation shall be installed to continuously monitor changes in annulus pressure and annulus fluid volume for the purpose of detecting well malfunctions.

§331.63. Operating Requirements.

(a) Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate new fractures in the confining zone, or cause movement of fluid out of the injection that may pollute underground sources of drinking waters or surface [fresh] water.

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

(e) All gauges, pressure sensing, and recording devices shall be tested and calibrated quarterly.

(f)[(e)] Any chemical or physical characteristic of the injected fluids shall be maintained within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the facility.

(g)[(f)] The permittee shall notify the executive director before commencing any workover operation or corrective maintenance which involves taking the injection well out of service. The notification shall be in writing and shall include plans for the proposed work. The executive director may grant an exception of the prior written notification when immediate action is required. Approval by the executive director shall be obtained before the permittee may begin any workover operation or corrective maintenance that involves taking the well out of service. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

(h) Mechanical integrity shall be demonstrated following any major operations which involve removal of the injection tubing, recompletion, or unseating of the packer.

(i) For workovers or testing on hazardous waste disposal wells, all hazardous fluids shall be flushed from the wellbore and the well shall be killed with a non-hazardous fluid. No hazardous waste streams may be used in any workover or testing operations which have the potential for exposure of the hazardous materials to the environment or the public.

(j) An owner or operator of a Class I well who ceases injection temporarily, may keep the well open provided

he:

(1) has received authorization from the executive director; and

(2) has described actions or procedures, satisfactory to the executive director, that the owner or operator will take to ensure that the well will not endanger Underground sources of Drinking Waters during the period of temporary disuse. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells, including mechanical integrity, unless waived by the executive director.

(k) The owner or operator of a well that has ceased operations for more than two years shall notify the executive director 30 days prior to resuming operation of the well.

§331.64. Monitoring and Testing Requirements.

(a) (No change.)

(b) Pressure gauges shall be installed and maintained in proper operating conditions at all times on the injection tubing and on the tubing-long string casing annulus, and/or tubing-liner annulus, at the wellhead.

(c) Continuous recording devices shall be installed and maintained in proper operating condition at all times to record injection tubing pressures, injection flow rates, injection fluid temperatures, injection volumes, tubing-long string casing annulus pressure and volume, and any other data specified by the permit. The instruments shall be housed in weatherproof enclosures.

(d) Mechanical integrity must be demonstrated within 12 month intervals [at least once every five years] during the life of the well. A temperature log, noise log, or other approved log shall be required by the executive director at least once every five years to test for fluid movement along the borehole, and a casing inspection, casing evaluation, or other approved log may be required by the executive director to determine the condition of the casing.

(e) Any wells within the area of review selected for the observation of water quality, formation pressure, or any other parameter, shall be monitored at a frequency sufficient to protect Underground Sources of Drinking Waters or surface [fresh] water.

(f) Corrosion monitoring.

(1) Corrosion monitoring of well materials shall be conducted quarterly. Test materials shall be the same as those used in the injection tubing, packer, and long string casing, and will be continuously exposed to the waste fluids

with the exception of when the well is taken out of service.

(2) Corrosion monitoring may be waived by the executive director if the injection well owner or operator satisfactorily demonstrates, prior to authorization to conduct injection operations, that the waste streams will not be corrosive to the well materials with which the waste is expected to come into contact throughout the life of the well. The demonstration shall include a description of the methodology used to make that determination.

(g) Ambient monitoring.

(1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the executive director shall require the owner or operator to develop a monitoring program.

(2) At a minimum, the executive director shall require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

(h) Any other monitoring and testing requirements which the executive director determines to be necessary including but not limited to monitoring for seismic activity.

§331.65. Reporting Requirements.

(a) Pre-operation reports.

(1) Completion report. Within 90 days after the completion of the well, the permittee shall submit a completion report to the executive director addressing the considerations and standards in §331.45(1) of this title (relating to Certification of Construction and Completion and §331.62 of this title (relating to Construction Standards), and including [providing the drilling and completion history, casing and cementing records, well logs, injectivity tests performed on the well, and] a surveyor's plat showing the exact location and giving the latitude and longitude of the well. [The drilling history shall include a complete and accurate record of the depth, thickness, and character of the strata penetrated.] The permittee shall integrate the data obtained into adjusted formation pressure increase calculations, fluid front calculations and updated cross-sections of the injection zone and include these items in the completion report. [A descriptive report interpreting the results of all logs and tests shall be included in the completion report.]

(2)-(3) (No change.)

(4) Start-up date and time. The permittee shall notify the executive director in writing of the anticipated well start-up date. Compliance with all preoperation terms of the permit must occur prior to

beginning injection operations. The permittee shall notify the executive director at least 24 hours prior to beginning drilling operations.

(5) Certification of construction and completion. Prior to beginning operations, the permittee shall obtain written certification from the executive director which states that the construction and completion of the well is in compliance with the applicable provisions of the disposal well permit. To obtain certification, the permittee shall submit to the executive director the following reports prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act.

(A) Final construction, as-built plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion).

(B) Construction of the well and associated facilities has been completed in accordance with the provisions of the disposal well permit and with the design and construction specifications of the permittee's application.

(C) Actual reservoir data obtained will not result in a change in the operation parameters specified in the permit.

(b) Operating reports.

(1) Injection operation quarterly report. For noncommercial facilities only, within [Within] 20 days after the last day of the months of March, June, September, and December, the permittee shall submit to the executive director a quarterly Report of Injection Operation on forms supplied by the executive director. These forms will comply with the reporting requirements of 40 Code of Federal Regulations, §146.69(a). The executive director may require more frequent reporting.

(2) Injection operation monthly report. For commercial facilities only.

(A) The permittee shall submit to the commission within ten (10) days after the last day of each month a report describing chemical characteristics of new waste streams received for injection. The report shall be on forms provided by or acceptable to the commission.

(B) The permittee shall submit within 30 days after the last day of each month a report to the commission including the following information for

wastes received and injected during the month:

(i) names and locations of the companies and plants generating the wastes;

(ii) nature and volume of waste received from each company including pH;

(iii) names of companies transporting the wastes: and

(iv) a log of injection operations for each injection episode including time of injection, injection rate, injection fluid volume, injection fluid pH, and injection fluid density.

(C) The permittee shall submit to the commission within 20 days of the last day of each month a report of injection operations on forms provided by the commission.

(3)[(2)] Injection zone annual report. For all facilities, the [The] permittee shall submit annually with the December report of injection operation an updated graphic or other acceptable report of the pressure effects of the well upon its injection zone as required by §331.64(u) of this title (relating to Monitoring Requirements). [The report shall include direct measurement of bottom-hole pressure or a calculation of bottom-hole pressure using the specific gravity of fluid in the wellbore and the static fluid level.] To the extent such information is reasonably available, the report shall also include:

(A) locations of newly constructed or newly discovered wells within the area of review if such wells were not included in the technical report accompanying the permit application or in later reports; [and]

(B) a tabulation of data as required by §331.121(2)(B) of this title (relating to Class I Wells) for all such wells within 1/2 mile of the injection well and for all other wells within the area of review that penetrate the injection zone or confining zone [to within 300 feet of the top of the injection zone.]; and

(C) for noncommercial facilities only, a current injection fluid analysis.

(4)[(3)] Mechanical integrity and other reports. The permittee shall submit within 30 [45] days after test completion, a report including both data and interpretation on the results of:

(A)-(B) (No change.)

((5)[(4)] Emergency report of leak or other failure. The permittee shall notify the Underground Injection Control

(UIC) Unit of the Austin office of the commission within 24 hours of any significant change in monitoring parameters or of any other observations which could reasonably be attributed to a leak or other failure of the well equipment or injection zone integrity.

(c) Workover reports.

(1) Completed workover report. Within 30 [60] days after the completion of the workover, a report shall be filed with the executive director including the reason for well workover and the details of all work performed.

(2) (No change.)

§331.66. Additional Requirements and Conditions. A permit for a Class I well shall include expressly, or by reference, the following conditions. [The commission may prescribe additional requirements for Class I wells in order to protect fresh water from pollution.]

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

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

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

(4) The commission may prescribe additional requirements for Class I wells in order to protect Underground sources of Drinking Waters or surface [fresh] water from pollution.

(5) The obligation to implement the plugging and abandonment plan and the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

§331.67. Record-Keeping Requirements.

(a) The permittee shall keep complete and accurate records of:

(1) all monitoring required by the permit, including:

(A) (No change.)

(B) continuous records of the tubing-long string annulus pressures and volumes;

(C)-(D) (No change.)

(2) all periodic well tests, including but not limited to:

(A) (No change.)

(B) bottom hole pressure determinations; [and]

(C) mechanical integrity; and [.]

(D) casing inspection surveys;

(3)-(4) (No change.)

(b) (No change.)

(c) The permittee shall retain, for a period of five years following abandonment, records of all information resulting from any monitoring activities, including the nature and composition of injected fluids, or other records required by the permit. The executive director may require a permittee to submit copies of the records at any time prior to conclusion of the retention period.

§331.68 Post-Closure Care.

(a) The owner or operator of a Class I hazardous well shall prepare, maintain, and comply with a plan for post closure care that meets the requirements of subsection (b) of this section, and is acceptable to the executive director.

(1) The owner or operator shall submit the plan as a part of the permit application and, upon approval by the executive director, such plan shall be a condition of any permit issued.

(2) The owner or operator shall submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the plugging and abandonment report required under §305.46 of this title (relating to Plugging and Abandonment Standards).

(3) The plan shall assure financial responsibility as required in §305.153 of this title (relating to Financial Responsibility). The amount of the funds available shall be no less than the amount identified in §331.68(a)(4)(F) of this title (relating to Post-Closure Care).

(4) The plan shall include the following information:

(A) the pressure in the injection zone before injection began;

(B) the anticipated pressure in the injection zone at the time of closure;

(C) the predicted time until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW;

(D) predicted position of the waste front at closure;

(E) the status of any corrective action required under §331.44 of this title (relating to Corrective Action Standards);

(F) the estimated cost of proposed post-closure care.

(5) At the request of the owner or operator, or on his own initiative, the executive director may modify the post-closure plan after submission of the plugging and abandonment report following the procedures in Chapter 305, Subchapter D, of this title (relating to Consolidated Permits).

(b) The owner or operator shall:

(1) continue and complete any corrective action required under §331.44 of this title (relating to Corrective Action Standards);

(2) continue to conduct any groundwater monitoring required under the permit until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW. The executive director may extend the period of post-closure monitoring if he determines that the well may endanger a USDW;

(3) submit a survey plat to the local zoning authority designated by the executive director. The plat shall indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat shall be submitted to the Underground Injection Control (UIC) Unit of the Austin office of the TWC;

(4) provide appropriate notification and information to such state and local authorities as have cognizance over drilling activities to enable such state and local authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the well's confining or injection zone; and

(5) retain for a period of three years following well plugging and abandonment records reflecting the nature, composition and volume of all injected fluids. The executive director shall require the owner or operator to deliver the records to the executive director at the conclusion of the retention period, and all records shall thereafter be retained at a location designated by the executive director for that purpose.

This agency hereby certifies that the proposal has been reviewed by legal counsel and

found to be within the agency's authority to adopt.

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Subchapter G. Consideration Prior to Permit Issuance

• 31 TAC §331.121

The amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provides TWC with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019 authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers, duties under Chapter 27. TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

§331.121. Class I Wells.

(a) The commission shall consider the following before issuing a Class I injection well permit:

(1) (No change.)

(2) all information in the technical report submitted with the application for permit in conformance with Chapter 305 of this title (relating to Consolidated Permits) including, but not limited to:

(A) (No change.)

(B) a tabulation of [reasonably available data on] all wells [within 1/2 mile of the injection well and on all wells] within the area of review which penetrate [to within 300 feet of] the injection zone or confining zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the executive director may require [to the extent such data are reasonably available];

(C) the protocol followed to identify, locate, and ascertain the condition of abandoned wells within the area

of review which penetrate the injection or the confining zones;

(D)(C) maps and cross-sections indicating the general vertical and lateral limits of Underground Sources of Waters (USDWs) [those aquifers within the area of review that contain water with less than 3,000 mg/l TDS and those that contain water with less than 10,000 mg/l TDS], their positions relative to the injection formation and the direction of water movement, where known, in each USDW [freshwater aquifer] which may be affected by the proposed injection;

(E)(D) maps and cross-sections detailing the geologic structure of the local area;

(F)(E) generalized maps and cross-sections illustrating the regional geologic setting;

(G)(F) proposed operating data:

(i)-(iv) (No change.)

(H)(G) proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of formation fluids and [a sample of formation fluids and] other information on the injection zone and confining zone [the receiving formation];

(I)(H) proposed stimulation program;

(J)(I) proposed operation and injection procedures;

(K)(J) engineering drawings of the surface and subsurface construction details of the system;

(L)(K) contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any USDW [freshwater aquifer];

(M)(L) plans (including maps) for meeting the monitoring requirements of this chapter, such plans shall include all parameters, test methods, sample methods, and quality assurance procedures necessary and used to meet these requirements;

(N)(M) for wells within the area of review which penetrate the injection zone or confining zone [to within 300 feet of the top of the injection zone] but are not adequately constructed, completed, or plugged, the corrective action proposed to be taken;

(O)(N) construction procedures, including a cementing and casing program, well materials specifications and their life expectancy, logging procedures, deviation checks [if required], and a drilling, testing, and coring program;

(3) (No change.)

(4) the plugging and abandonment plan, corrective action plan, and post-closure plan [and abandonment plan] submitted in the technical report accompanying the permit application;

(5) (No change.)

(b) In determining whether the use or installation of an injection well for the disposal of hazardous waste is in the public interest under the Texas Water Code, §27.051(a)(1), the commission shall also consider:

(1) (No change.)

(2) whether there is a practical, economic, and feasible alternative to an injection well reasonably available to manage the types and classes of hazardous waste; [and]

(3) whether the applicant will maintain significant public liability insurance for bodily injury and property damage to third parties that is caused by sudden and nonsudden accidents or will otherwise demonstrate financial responsibility in a manner adopted by the commission in lieu of public liability insurance. A liability insurance policy which satisfies the requirements of 40 Code of Federal Regulations, §264.147 shall be deemed sufficient under this paragraph if the policy also covers the injection well; and [.]

(4) any permit issued for a Class I injection well for disposal of wastes generated on-site shall contain a certification by the owner or operator that:

(A) the generator of the waste has a program to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

(B) injection of the waste is that practicable method of disposal currently available to the generator which minimizes the present and future threat to human health and the environment.

(c) The commission shall consider the following minimum criteria for siting before issuing a Class I injection well permit.

(1) All Class I injection wells shall be sited such that they inject into a formation that is beneath the lowermost formation within 1/4 mile of the wellbore

containing a USDW.

(2) The siting of Class I injection wells shall be limited to areas that are geologically suitable. The executive director shall determine geologic suitability based upon:

(A) an analysis of the structural and stratigraphic geology, the hydrogeology, and the seismicity of the region;

(B) an analysis of the local geology and hydrogeology of the well site, including, at a minimum, detailed information regarding stratigraphy, structure, and rock properties, aquifer hydrodynamics, and mineral resources; and

(C) a determination that the geology of the area can be described confidently and that limits of waste fate and transport can be accurately predicted through the use of models.

(3) Class I injection wells shall be sited such that:

(A) the injection zone has sufficient permeability, porosity, thickness, and aerial extent to prevent migration of fluids into USDWs;

(B) the confining zone:

(i) is laterally continuous and free of transecting, transmissive faults or fractures over an area sufficient to prevent the movement of fluids into a USDW; and

(ii) contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing initiation and/or propagation of fractures.

(4) The owner or operator shall demonstrate to the satisfaction of the executive director that:

(A) the confining zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW in the event of fluid movement in an unlocated borehole or transmissive fault; or

(B) within the area of review, the piezometric surface of the fluid in the injection zone is less than the piezometric surface of the lowermost USDW, considering density effects, injection pressures, and any significant pumping in the overlying USDW; or

(C) there is no USDW pre-

sent;

(D) the commission may approve a site which does not meet the requirements in subparagraphs (A), (B), or (C) of this paragraph if the owner or operator can demonstrate to the commission that because of the geology, nature of the waste, or other considerations, that abandoned boreholes or other conduits would not cause endangerment of USDWs.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1989.

TRD-8903420

Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 22, 1989

For further information, please call: (512) 463-8087

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**TITLE 37. PUBLIC
SAFETY AND
CORRECTIONS**

**Part III. Texas Youth
Commission**

**Chapter 119. Agreements With
Other Agencies**

**Memorandums of
Understanding**

• 37 TAC §119.3

The Texas Youth Commission proposes new §119.3, concerning the provision of services to mentally ill or mentally retarded youth committed to the commission. Senate Bill 33, passed by the 70th Texas Legislature, 1987, requires the adoption by rule of a memorandum of understanding between the Texas Youth Commission and the Texas Department of Mental Health and Mental Retardation regarding the provision of services to mentally ill and mentally retarded youth who are committed to the commission. The agreement providing for information, services, and resource sharing is to be updated annually. This document represents the agreement for July 1, 1989-July 1, 1990.

Neil Nichols, assistant executive director for support services, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Nichols also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to eliminate duplication of effort and improve services to mentally ill and mentally

retarded youth committed to the Texas Youth Commission. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Texas Youth Commission, P.O. Box 9999, Austin, Texas 78766

The new section is proposed under the Human Resources Code, §61.0771, which provides the Texas Youth Commission with the authority to enter into an agreement with the Texas Department of Mental Health and Mental Retardation through this memorandum of understanding.

§119.03. Provision of Services for Mentally Ill and Mentally Retarded Youth Committed to the Texas Youth Commission.

(a) Treatment.

(1) Services for youth with mental illness.

(A) Overview. A model program of Texas Department of Mental Health and Mental Retardation (TDMHMR) and Mental Health Authority (MHA) services for Texas Youth Commission (TYC) youth. In an attempt to improve the system by which TYC youth have access to TDMHMR and contracted community services, this model program has been developed. This model program focuses on the youth that TYC is least able to serve, i.e. those in need of psychiatric hospitalization. The psychiatric services to be utilized in this model program include the child and adolescent psychiatric services of the Austin State Hospital (ASH) and any other TDMHMR or contracted community services provided by ASH Outreach, Central Counties MHMR, and Austin Travis County MHMR that the youth need and are eligible for according to TDMHMR's admission criteria and rules of residency. Currently, there are no services at the Austin State Hospital for severely assaultive, emotionally disturbed youth in need of long-term treatment in a maximum security environment. Suggestions for meeting the needs of this underserved population are contained in the attached addendum. The TYC youth included in this model program are those residing at the Statewide Reception Center, Brownwood State School, Giddings State School, and Turman Halfway House. As always, TYC youth who are on parole and residents of the 10 counties for which ASH is the local mental health authority (MHA) or residents of counties served by Central Counties MHMR or Austin Travis County MHMR are eligible for the same services. For the purpose of this memorandum, the MHAs statewide will be exempt from bed day charges identified in the RAJ Settlement for those youth who are residents of their catchment area, under the jurisdiction of TYC, and residing at either

the Statewide Reception Center, Brownwood State School, Giddings State School, or Turman Halfway House. The model program is comprised of five steps: referral, assessment, staffing (treatment plan development), treatment, and aftercare planning.

(B) Referral process.

(i) Perhaps the most critical issue of the referral process is the admission criteria to the ASH child and adolescent psychiatric services. The purpose of identifying admission criteria is first and foremost to facilitate access to services for those in need and secondly to prevent inappropriate admissions. Child and adolescent psychiatric services admission criteria:

(I) TYC youth between the ages of 10 and 17;

(II) the youth shows symptoms of and is diagnosed as having an acute psychiatric disorder (psychosis, affective, or organic disorder) and because of this, is a danger to self or others. This would include the following Diagnostic and Statistical Manual of Mental Disorders (revised edition) (DSM III-R) diagnoses: Schizophrenia (295), Psychotic Disorder (298 and 297), Bipolar Disorders (296), Major Depression (296), and Acute Organic Disorder;

(III) recent attempts to provide psychiatric treatment including medications have failed to resolve the problem, and hospitalization represents the least restrictive appropriate treatment environment.

(ii) While the preceding are eligibility criteria, there are disqualifying criteria also. That is, a youth who meets one or more of the following should not be referred to ASH child and adolescent psychiatric services for hospitalization. Referral to other programs may be indicated. Child and adolescent psychiatric services admission disqualifying criteria:

(I) the youth is non-psychotic and unable to form therapeutic relationships, does not learn from experience, or shows limited anxiety or guilt regarding behavior;

(II) history of runaway and admission to the ASH would place the youth, his family, or the community in danger; a maximum security program is needed;

(III) history of severe exploitation, victimization or predatory behavior towards peers or younger children;

(IV) mental retardation

without a psychiatric disorder;

(V) substance abuse treatment is required;

(VI) a TYC facility or contract agency is available which could meet the youth's needs for psychiatric treatment.

(iii) Referrals are not made directly to ASH child and adolescent psychiatric services. In accordance with TDMHMR procedures, the MHA (Central Counties Community Mental Health Center, Austin Travis County, or ASH Outreach Center) must be involved in the referral process. Since TYC has competent psychiatric consultants, TYC will perform the required psychiatric assessments and will submit the two physician's certificates of medical examination for mental illness needed to obtain a temporary court commitment. Each of the MHA's affected by this program will designate a staff person who is familiar with the ASH child adolescent psychiatric services program to serve as contact person for TYC. The following is a list of the MHA's for the TYC facilities affected by this model program:

(I) Statewide Reception, Brownwood, Texas uses Central Texas MHMR Center. Brownwood;

(II) Brownwood State School, Brownwood, uses Central Texas MHMR Center, Brownwood;

(III) Giddings State School, Giddings, uses ASH Community Services Department Lee County Outreach Center, Giddings; and

(IV) Turman Halfway House, Austin, uses Austin Travis County MHMR, Austin.

(iv) The actual referral process may be described as follows.

(I) A TYC psychiatrist determines that a youth in their custody is in need of psychiatric hospitalization and meets the eligibility criteria for ASH child and adolescent psychiatric services.

(II) TYC staff contact the designated MHA staff by phone and set a time for exchange of information about the youth. TYC staff prepare a referral packet which must include a psychiatric evaluation completed within the last five days. Other available records should be included in the packet. Those which are most likely to be of help to the MHA staff are: recent physical exam, documentation of medications prescribed, past and present behavioral observations, psychological evaluation,

summaries from previous treatment facilities, social histories, and treatment plans.

(III) TYC staff take the packet to a MHA or outreach staff person. The MHA staff review the packet and if they are in agreement with the need for psychiatric hospitalization at the ASH, they complete a recommendation for the most appropriate treatment alternative letter, which will be taken to the court with the physician's certificate completed by TYC.

(IV) If MHA staff do not agree with the need for psychiatric hospitalization, ASH staff should be contacted for direct discussion of the youth's treatment needs.

(V) If TYC and TDMHMR are in disagreement at this point, either the TYC chief of counseling or the TDMHMR coordinator of children and youth services (or designees for either agency) should be contacted for further action. If the conflict is resolved in favor of admission, the following procedures will be implemented.

(VI) Designated TYC staff contact the youth's family and inform them of the upcoming ASH admission. TYC staff will give the guardian the name and phone number of the senior social worker on the receiving unit (ages 10-13, children's psychiatric services; or ages 14-17, adolescent psychiatric services) and encourage contact. The proposed patient is informed of the decision.

(VII) TYC staff inform the chief of counseling of the referral to ASH by Telex.

(VIII) If the youth is to be committed, the TYC staff must file the commitment papers with the county clerk and serve as the applicant (note: most courts have a 4 p.m. filing deadline).

(IX) TYC staff contact the social worker at the receiving ASH service and inform them of the estimated time of the patient's arrival.

(X) TYC staff should collect the following items for the youth: two changes of clothing, one pair of pajamas, jacket (seasonal) and hygiene articles. Patients in the ASH child adolescent psychiatric Service are not permitted to have their own radios, tapes, or cigarettes and matches. The youth should be searched for contraband prior to transportation.

(XI) After the com-

mitment papers are signed, TYC staff transport the youth to the Admissions Department at ASH (note: due to the amount of processing, it's best to arrive before 3 p.m.). TYC staff accompanying the youth should remain in the admissions office until the admissions process is complete.

(C) Assessment process.

(i) The assessment process is comprised of observation, review of historical data, and all diagnostic tests and evaluations conducted by the ASH treatment team.

(I) Each member of the multidisciplinary team assesses the youth and contributes to the diagnostic process. Written assessments are completed by the psychiatrist, social worker, and nurse.

(II) When indicated, a psychological, neuropsychological, educational, occupational therapy, or vocational assessment is also completed.

(III) Each youth receives a thorough physical examination and routine laboratory tests. All youth receive a vision and hearing screening. The psychiatrist orders any other diagnostic tests which are indicated.

(ii) Information provided by TYC to assist in the assessment process must include all of the following that are available:

(I) past psychiatric, psychosocial, psychological, and educational assessments;

(II) behavioral observations and documentation of treatment including all medications, dosages, and dates of changes;

(III) all past medical findings which may be relevant to the patient's condition or require ongoing care or follow up.

(D) Staffing process.

(i) Staffing refers to the multidisciplinary process whereby assessments are presented, staff observations are reviewed, treatment needs identified, and the treatment plan developed.

(ii) The staffing is held within 10 days of admission. ASH notifies the TYC staff and the MHA liaison of the date and time of the staffing.

(iii) The TYC contact person attends the staffing. Other TYC staff who have been involved in the youth's care may also attend.

(iv) Summaries of the assessments completed by ASH staff are presented at the staffing. TYC presents a summary of their treatment efforts and observations.

(v) The initial treatment plan (developed within 24 hours of admission) is reviewed at the staffing. TYC and ASH staff identify treatment needs, formulate goals, and identify therapeutic interventions.

(vi) The psychiatrist makes a diagnosis and estimates the length of stay.

(vii) Aftercare planning begins at the staffing. TYC staff present information regarding the youth's legal status and services available within the TYC system and with contract agencies. MHA liaisons provide information regarding services available in the youth's county of residence.

(viii) The treatment plan is discussed with the patient (unless there are clinical contraindications) and he/she is given the opportunity to provide input and ask questions.

(E) Treatment process.

(i) Treatment entails all psychiatric, psychological, social work, nursing, and adjunctive therapies used to implement the youth's treatment plan and achieve the treatment goals. Treatment at the ASH child adolescent psychiatric service can include psychoactive medications, individual, group, and/or family therapy. All youth receive milieu, recreational, and behavior modification therapy. Children and adolescents who will be hospitalized more than four weeks receive special education services. All treatment is provided according to the needs of the youth and in direct daily supervision of the psychiatrist.

(ii) The youth's treatment plan is reviewed regularly. At minimum, the plan is reviewed two weeks after formulation and one month thereafter. ASH staff inform the TYC contact person, by phone or in writing, of the dates and times the treatment plan will be reviewed. The MHA is also informed of the same. When TYC is unable to attend meetings where the treatment plan is discussed, phone contact will be initiated.

(F) Discharge process.

(i) The discharge process is comprised of the activities which coordinate release and service to be provided after the youth leaves ASH. Five parties are involved in the discharge process: the youth and his family, ASH, TYC, and the MHA staff. The discharge planning process begins at admission and modifications are made as treatment progresses.

(I) It may be determined during the youth's staffing that the youth is not in need of further psychiatric hospitalization. The youth's psychiatric treatment needs are identified and the ASH staff makes recommendations as to how those needs can best be met.

(II) A discharge date is agreed upon and plans are made for transportation. ASH reports are completed for TYC staff.

(ii) The discharge planning process for TYC youth who are involved in treatment at ASH is more complex. The following is a brief overview of the planning process and factors which should be considered.

(I) At the time of staffing these issues are discussed:

(-a-) the youth's status with TYC and readiness for parole;

(-b-) the youth's treatment and rehabilitation needs after discharge. Other needs (medical, educational/vocational) are also discussed;

(-c-) the family situation and services available within the youth's community are explored;

(-d-) all possible placements and treatment settings are considered;

(-e-) an initial decision is made regarding which setting or facility will best meet the youth's needs;

(-f-) these services can include residential or outpatient care. TYC will assume financial responsibility for all youth remaining under their custody. Youth returning to the community and that are in parental custody will be eligible for all available services provided by the MHA. Payment for such services will be based upon the family's ability to pay.

(II) During the course of treatment, modifications in the plan are made, applications for programs are filed and after care services are initiated, and the youth and his family are prepared for the transition to the community. Staff maintains ongoing contact with the family to discuss changes that are needed.

(III) All parties will creatively combine resources in order to insure implementation of the plan.

(IV) If problems arise in development of the discharge plan, meetings will be scheduled with ASH staff, TYC staff, and the MHA liaison.

(V) As the time of dis-

charge approaches, each agency documents the final plan according to its policies. Final transportation arrangements are made.

(VI) ASH staff prepare the discharge packet which will include the discharge summary whenever possible and make arrangements for delivery of the packet.

(VII) ASH provides discharge medications as appropriate to the youth's needs.

(VIII) Youth who are awaiting placement are returned to TYC unless the ASH treating psychiatrist determines that it would be detrimental.

(2) Services for youth with mental retardation.

(A) TDMHMR will assist TYC in providing habilitation services for youth with mental retardation. The guidelines for offering this assistance are presented as follows.

(i) TDMHMR will provide TYC with a listing of all residential and day services in the state for youth with mental retardation. The list should be updated by TDMHMR as new services become available.

(ii) The TDMHMR deputy commissioner for mental retardation services shall appoint a staff person to be a liaison with TYC to identify community services for youth with mental retardation committed to TYC. Payment for such services are based on the family's ability to pay.

(iii) The Mental Retardation Authorities (MRAs) for the counties served by the mental health pilot program, which include Austin Travis County MHMR, Austin State School, Travis State School, and Central Counties MHMR, will assist TYC in obtaining comprehensive diagnostic and evaluation services for youth who may have mental retardation.

(iv) TYC will assume financial responsibility for all youth remaining under their custody. Youth returning to the community and that are in parental custody will be eligible for all available services provided by the MRA. Payment for such services are based on the family's ability to pay.

(B) Assistance provided in this area is primarily designed to help TYC utilize community mental retardation services. This allows for TYC youth to be treated in the least restrictive setting.

(b) Training.

(1) By sharing expertise and training opportunities, the two agencies

hope to attain two goals. First, sharing information will help staff in each agency develop realistic expectations about the availability of services and the types of youth each agency can adequately serve. Second, sharing information may increase each agency's ability to meet the needs of the multiple handicapped youth, i.e. the youth with legal, behavioral, and psychological problems. Overall, sharing information is viewed as a mechanism for creating interagency understanding and cooperation which will improve services for the troubled youth of the state.

(2) Information sharing will occur in several different areas. Objectives in each area are outlined as follows. Compliance with objectives will be monitored by the TYC and TDMHMR directors of training.

(A) Existing training material. Directors of staff training for each agency will meet and exchange the following information:

(i) listing of all written training curriculums;

(ii) listing of all video training material; and

(iii) procedures whereby interagency lending of materials could occur.

(B) Ongoing training opportunities. Directors of staff training for each agency will establish a mechanism to allow for interagency staff development programs.

(i) Staff development at TDMHMR state schools, state hospitals, MHAs and MRAs will submit notices to the TDMHMR director of training of planned staff development programs regarding assessment and treatment of adolescents.

(ii) Staff development in TYC training schools submit to the TYC director of training notices of planned staff development programs regarding assessment and treatment of adolescents. For direct mailing, a contact person for each site will be designated.

(iii) The directors of training exchange information regarding available training opportunities. Exchange of information should be timely and allow for staff from both agencies to register and attend training.

(iv) The directors of training will collaborate on the development of new training opportunities to be offered jointly.

(v) A mechanism for information is to be completed and documentation of information is expected to be maintained thereafter.

(c) Treatment program for aggressive youth.

(1) In 1984 the TDMHMR established a task force to review mental health services for children and adolescents. This group identified three critical unmet needs for the emotionally disturbed patient population. These include a lack of services for:

(A) violent or physically aggressive youth;

(B) borderline IQ youth with severe behavior disturbance, including sexual aggression, substance abuse and fire setting; and

(C) youth in need of intensive long-term residential treatment.

(2) Since the time of this report, little change has occurred within the mental health service delivery system. The previously identified youth comprise a large percentage of those served by the juvenile justice system as well as those who are underserved by the mental health service delivery system. There still exists the need to develop a continuum of care for this population who are often labeled untreatable.

(3) This service system gap provides an excellent opportunity for the development of collaborative programs between the mental health and juvenile justice system. Such programs would ideally include inpatient care as well as outpatient services such as day treatment, therapeutic foster care, respite care, and intensive family involvement.

(4) Current treatment services provided within the state hospital are often inadequate to meet the needs of the violent and seriously disturbed adolescent, particularly those with borderline IQ. There is a desperate need for acute inpatient and intensive long-term residential treatment programs as well as intensive community based programs. These services could best be provided through the development of a facility, a unit, or other services which could be jointly funded by TDMHMR and TYC. The residential program would be similar to the maximum security unit at Vernon State Hospital.

(5) This is a population at risk for developing more violent behavior which will place them in a position to further harm society as well as themselves. It is the hope of this addendum that this issue of a current lack of resources will be addressed by the legislature as well as both agencies.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 10, 1989.

TRD-8903401

Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: May 22,
1989

For further information, please call: (512)
452-8111, Ext. 107



Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter B. Basic Rules

• 16 TAC §9.36, §9.64

The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §9.36, and §9.64, concerning the basic rules. The text of the withdrawn amendment appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is April 14, 1989.

Issued in Austin, Texas, on April 14, 1989.

TRD-8903373 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: April 14, 1989

For further information, please call: (512)
463-7152

Subchapter F. Division IV

• 16 TAC §9.140

The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §9.140, concerning division IV. The text of the proposed new section appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is April 12, 1989.

Issued in Austin, Texas, on April 12, 1989.

TRD-8903288 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: April 12, 1989

For further information, please call: (512)
463-7152

• 16 TAC §9.143, §9.146

The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §9.143, and §9.146 concerning division IV. The text of the proposed new section appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is April 12, 1989.

Issued in Austin, Texas, on April 12, 1989.

TRD-8903297 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: April 12, 1989

For further information, please call: (512)
463-7152

Subchapter M. Division XI

• 16 TAC §9.310

The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §9.310, concerning division XI. The text of the proposed new section appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is April 12, 1989.

Issued in Austin, Texas, on April 12, 1989.

TRD-8903283 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: April 12, 1989

For further information, please call: (512)
463-7152

Subchapter O. Division XIII

• 16 TAC §9.410

The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §9.410, concerning division XIII. The text of the withdrawn amendment appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is April 12, 1989.

Issued in Austin, Texas, on April 12, 1989.

TRD-8903279 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: April 12, 1989

For further information, please call: (512)
463-7152

Subchapter P. Division XIV

• 16 TAC §9.526

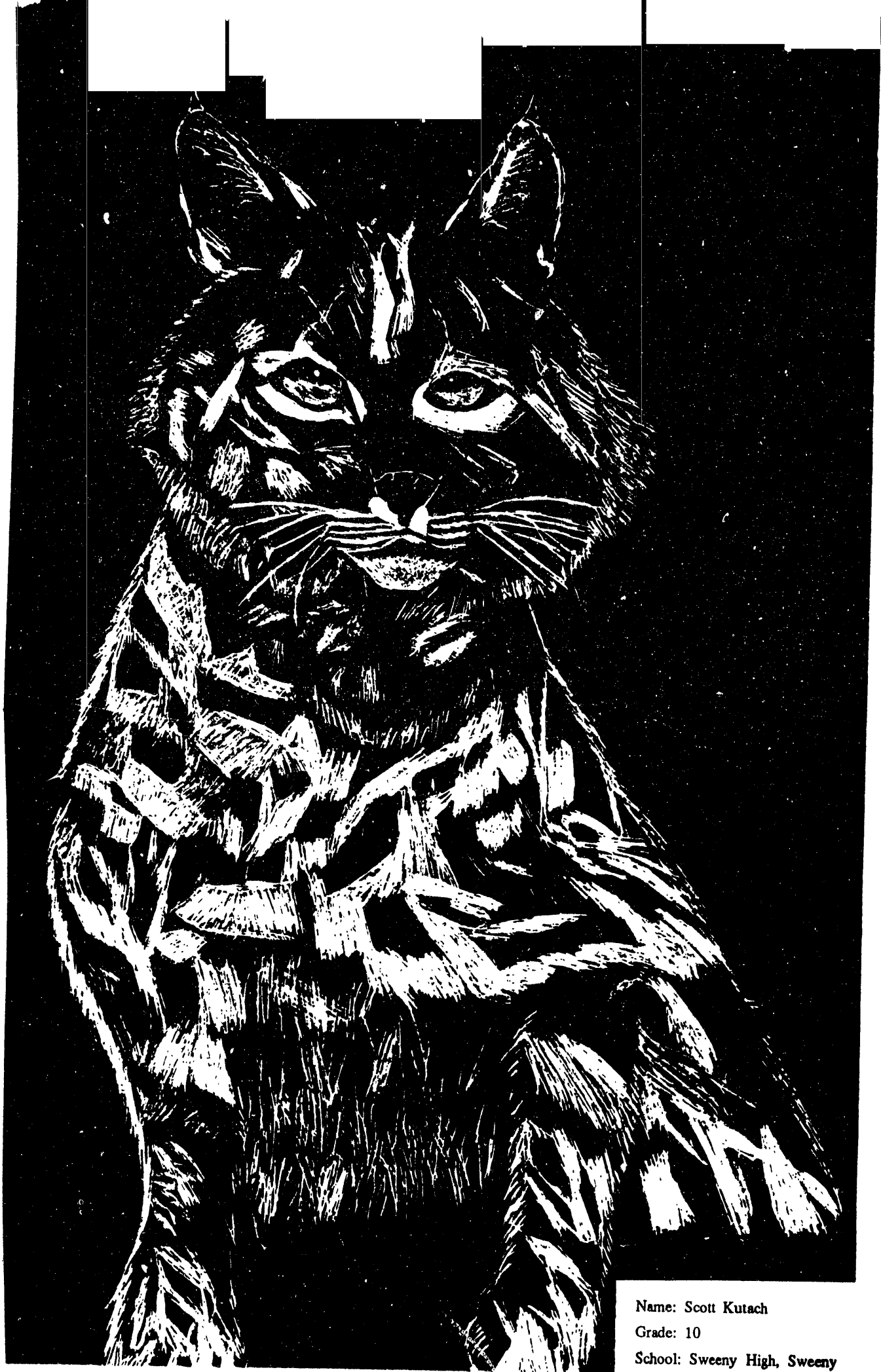
The Railroad Commission of Texas has withdrawn the emergency effectiveness of proposed §9.526, concerning division XIV. The text of the new section appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is April 14, 1989.

Issued in Austin, Texas, on April 14, 1989.

TRD-8903374 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: April 14, 1989

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463-7152



Name: Scott Kutach

Grade: 10

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Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 1.

ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 255. Finance

• 1 TAC §255.3

The Advisory Commission on State Emergency Communications adopts an amendment to §255.3, with changes to the proposed text as published in the January 31, 1989, issue of the *Texas Register* (14 TexReg 611).

The Advisory Commission on State Emergency Communications, in compliance with Texas Civil Statutes, Article 1432f, §6, amends the section and it is adopted with changes to allow for the addition and assessment of the 9-1-1 surcharge on non-mandatory counties participating in an approved regional plan.

The amendment clarifies the definition of the effective date and areas of implementation of the 9-1-1 surcharge in accordance with Texas Civil Statutes, Article 1432f, §6, as it pertains to non-mandatory counties participating in an approved regional plan.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1432f, §6, which provide the Advisory Commission on State Emergency with the authority to establish the 9-1-1 equalization surcharge funding mechanism which allows for the planning and implementation of 9-1-1 emergency telephone systems.

§255.3. Dates and Areas of Implementation. The equalization surcharge shall be effective on July 1, 1988, and shall be charged for intrastate long-distance service provided in all counties having a population of more than 120,000 according to the most recent decennial census. The surcharge on intrastate long-distance service in additional cities and counties can be assessed by resolution of the governing bodies and upon inclusion in a regional plan for 9-1-1 service approved by the Advisory Commission on State Emergency Communications.

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 April 5, 1989.

TRD-8903409

Mary A. Boyd
Executive Director
Advisory Commission on
State Emergency
Communications

Effective date: May 5, 1989

Proposal publication date: January 31, 1989

For further information, please call: (512) 327-1911

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Applicability and Requirements

• 16 TAC §§9.1-9.3, 9.6, 9.9, 9.15, 9.21, 9.28, 9.29

The Railroad Commission of Texas adopts amendments to §§9.1-9.3, 9.6, 9.9, 9.15, 9.21, 9.28, and 9.29. In addition, the commission adopts new §9.5. Sections 9.3, 9.5, 9.21, and 9.29 are adopted with changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). Sections 9.1, 9.2, 9.6, 9.9, 9.15, and 9.28 are adopted without changes and will not be republished.

The amendments are adopted to clarify the existing rules.

New §9.5 is adopted to ensure basic understanding of the LP-gas safety rules and regulations prior to issuance of an LP-gas license in order to protect the health, safety, and welfare of the general public.

The amended sections concern the definition of terms, categories of licenses offered, examination and certification requirements, application requirements, and procedures for filing exceptions to any of the LP-gas safety rules.

New §9.5 will require prospective operations supervisors and representatives of Category D, E, F, G, I, J, K, and L licensees to complete an approved safety instruction course no more than one year before taking the LP-gas management examination. Under the section as adopted, the Category E (concerning to retail and wholesale dealers) instruction course will be a minimum of 40 classroom hours in duration. The Category D, E, F, G, I, J, K, and L courses will be a minimum of one

hour in duration. Category A, B, C, and H representatives and operations supervisors are exempt from the course of instruction requirements under the new section. Finally, under the newly adopted section, the LP-gas division director is allowed, for good cause shown, to grant conditional qualification as a Category D, E, F, G, I, J, K, or L representative or operations supervisor, if within 100 days of taking and passing the management examination, the individual seeking conditional qualification has completed the appropriate course of instruction.

Comments concerning proposed §§9.3, 9.5, 9.21, and 9.29 were received by the commission.

Concerning §9.3, the commission has added language to the preamble for purposes of clarification.

Concerning §9.5, the Texas LP-Gas Association (TLPGA) suggested minor wording changes in order to clarify the meaning of subsections (a) and (b). The commission agrees with these recommendations and has made these changes. Another commenter commented that this section should not apply to persons who are currently licensed. The commission points out that §9.5 does not apply to current licensees, but only applies to prospective licensees. In addition, the commission has changed the effective date in §9.5(d) to September 1, 1990, in order to allow sufficient time to develop a course format.

Concerning §9.21(f)(2)(B), the TLPGA suggested changing the word "affected" to "objecting" and also recommended striking "shall forward to the LP-Gas Division" from this subsection. The commission agrees with these suggestions and has made these changes.

Concerning §9.29(a), the TLPGA recommended changing the word "licensed" to "public". The commission agrees that the word should be changed, but believes substitution of the word "retail" for the word "licensed" is the most appropriate way to clarify the meaning of this section.

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Division industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.3. Categories of Licensees. A prospective licensee may apply to the LP-Gas Division for a license to engage in one or more of the following categories:

(1)-(4) (No change.)

(5) Category E-Retail and wholesale dealers, which covers the storage, sale, transportation, and distribution of LP-gas at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, and subframing of LP-gas containers.

(6) Category F-Cylinder exchangers, which covers the operation of a cylinder filling and container exchange dealership, including cylinder filling, the sale of bottled LP-gas in cylinders, and the replacement of a cylinder valve.

(7) (No change.)

(8) Category H-Cylinder dealers, which covers the transportation and sale of LP-gas in cylinders.

(9) Category I-Service station and cylinder exchanges, which covers any service station and cylinder activity set in Category F and Category G of this section.

(10) Category J-Service station and cylinder dealerships, which covers the operation of a cylinder filling and container exchange dealership, including cylinder filling and the sale, transportation, installation, and connection of LP-gas in cylinders, and the replacement of cylinder valves, and the operation of an LP-gas service station as set out in Category G.

(11)-(12) (No change.)

§9.21. Application for an Exception to a Safety Rule.

(a) Filing. Any person, firm, or corporation may apply for an exception to the provisions of this chapter by filing an application for exception with the Liquefied Petroleum Gas Division.

(b) (No change.)

(c) Content. The application shall contain the following:

(1)-(3) (No change.)

(4) a description of the acreage and/or address upon which the exception, if granted, will be located should its location be stationary. The description shall be in writing and shall include a plat drawing and shall identify the site sufficiently to permit determination of property boundaries, state the ownership of the land, and state under what legal authority the applicant, if not the owner, is permitted occupancy;

(5)-(7) (No change.)

(d) Notice.

(1) The applicant shall send a copy of the application by certified mail, return receipt requested, to all affected parties on the same date on which the application is filed with or sent to the commission. The application shall include, in addition to the other requirement, a notice to the affected parties that any objection must be filed within 18 days of receipt. All

return receipts shall be forwarded to the commission. All objections must be filed with the division within 18 days of receipt of application.

(2) In the case of an exception requested on a stationary site, affected parties to whom the applicant must give notice shall include, but not be limited to:

(A)-(B) (No change.)

(C) the county commission, if the site is not within any municipal limits.

(3) In the case of an exception requested on a nonstationary site, affected parties to whom the applicant must give notice shall include, but not be limited to:

(A)-(C) (No change.)

(4) (No change.)

(e) Division review. The division director or his delegate shall review the application when it is complete. If the commission has received no objections from any affected parties as defined in subsection (d) of this section, the director may grant administratively the exception if it will neither imperil nor tend to imperil the health, welfare, or safety of the general public. If the director declines administratively to grant the exception, he shall notify the applicant of the reasons and of any specific deficiencies. The applicant may modify the application to correct the deficiencies and resubmit the application, or may request a hearing on the matter.

(f) Hearings.

(1) When held. A hearing will be held when the commission receives objections from any affected party, or when the applicant requests one following an administrative denial. To be granted a hearing the applicant must file a request for hearing within two weeks of receiving notice of the administrative denial.

(2) Notice.

(A) The division shall prepare a notice of hearing which shall be delivered to the applicant by certified mail, return receipt requested, not less than 10 days prior to the date of the hearing. A copy of the notice attached to the application shall be posted in a conspicuous place in the division's office in Austin, not less than 10 days prior to the date of hearing.

(B) The division shall mail copies of the notice of hearing by certified mail to all objecting parties, return receipt requested, at such time that objecting parties should receive copies at least 10 days prior to the date of hearing.

(3) (No change.)

(g)-(i) (No change.)

§9.29. Filings Required for LP-Gas Installations.

(a) Prior to the installation of any LP-gas container at a school, convalescent home, hospital, retail LP-gas cylinder filling/motor fuel service station, or any LP-gas container installation which would result in an aggregate water capacity of 10,000 gallons or more, plans and specifications for the complete LP-gas installation must be submitted on LPG Form 500 to the LP-Gas Division for tentative approval. The LP-Gas Division must be notified prior to implementation of any field alterations or additions during construction (except maintenance and repairs) which may necessitate resubmission of plans and specifications for reapproval consideration. No LP-gas shall be introduced into any LP-gas container at a school, convalescent home, or hospital which has not been granted final approval by the division. No LP-gas container may be placed into LP-gas service until after final approval has been granted by the division. Final approval will follow a physical inspection of the completed installation which indicates that it was installed in accordance with the approved plans and specifications and was installed in full compliance with all applicable LP-Gas Safety Rules.

(b) (No change.)

(c) A manufacturer's data report, Manufacturer's Report of Pressure Vessel Repair, Modification, or Testing (LPG Form 8), and any other documentation pertinent to establishing installation compliance with the safety rules, must be submitted when requested by the division.

(d) The LP-Gas Division shall determine restrictions on individual LP-gas container capacity, and total storage capacity for any LP-gas installation in a heavily populated or congested area.

(e)-(f) (No change.)

(g) If application is made for a license under any category where plans or specifications are submitted for installation of bulk storage and/or dispensing equipment, the license to operate shall not be issued before final approval of the installation has been granted by the division. Final approval will follow a physical inspection of the completed installation in accordance with subsection (a) of this section.

(h) The requirements of plans and specifications as noted in subsections (a), (d), (e), and (g) of this section shall not apply to existing LP-gas installations previously approved by the division. Plans and specifications are not required prior to installation of bulkheads and emergency shut-off valves (ESV's), where maintenance and improvements are being made to existing Piping systems, and where LP-gas container replacements of the same size or less are being installed in the exact same location.

Upon completion of the tank replacements, a LPG Form 501, completion report, must be filed with the division in accordance with subsections (b) and (f) of this section.

(i) If the tentatively approved installation is not completed within one year from the date original approval was granted, the applicant must notify the division in writing prior to the date of expiration and shall either request withdrawal of the original application or shall request an extension of time to complete the installation. The division director shall make the final determination on the request for extension of time.

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 April 10, 1989.

TRD-8903273

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
• 16 TAC §9.5

The new section is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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§9.5. Course of Instructions.

(a) No more than one year prior to taking the LP-gas management examination, all representatives and operations supervisors for prospective Category D, E, F, G, I, J, K, and L licensees shall attend and complete an approved course of instruction.

(b) However, any Category D, E, F, G, I, J, K, and L representative or operations supervisor who has been in a qualified status for a minimum of three years with an active licensee immediately prior to taking the management examination for the category of his qualified status shall not have to attend the course of instruction.

(c) The Category E course of instruction shall be given in Austin at times to be determined by the division director, and shall be a minimum of 40 hours of classroom instruction.

(d) The course of instruction for Category D, F, G, I, J, K, and L representatives and operations supervisors shall be given monthly in selected sites around the state and shall be a minimum of one hour instruction (effective September 1, 1990).

(e) No course of instruction is required for Category A, B, C, and H representatives and operations supervisors.

(f) The director of the LP-Gas Division may, for good cause shown, allow an individual to become conditionally qualified as a Category D, E, F, G, I, J, K, and L representative or operations supervisor by taking the management examination if that individual attends and completes the appropriate course of instruction no more than 10 days after taking and passing the management examination. If such individual fails to complete the course of instruction within the time granted by the director, the conditional qualification shall be voided.

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 April 10, 1989.

TRD-8903306

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949

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Subchapter B. Basic Rules

The Railroad Commission of Texas adopts amendments to §§9.31, 9.34, 9.46, 9.50, 9.59, 9.61, and 9.65. In addition, the commission adopts new §9.53 and §9.68. Finally, the commission withdraws all of the proposed amendments to § 9.36 and §9.64. Sections 9.31, 9.34, 9.46, 9.65, and 9.68 are adopted with changes to the proposed text published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). Sections 9.50, 9.53, 9.59, and 9.61 are adopted without changes and will not be republished.

The sections are adopted to clarify the existing rules.

The amended sections concern the odorization of gases, LP-gas container specifications (including pressure and temperature valves, fittings, and other equipment), LP-gas container safety examination and testing requirements, and forms and procedures used in reporting safety rule violation(s). New §9.53 and §9.68 concern the purging of LP-gas containers and cylinders and approved gauging devices for LP-gas containers.

Comments concerning §§9.31, 9.34, 9.46, 9.50, 9.64, 9.65, and 9.68 were received by the commission.

Concerning §9.31(f), the Texas LP-Gas Association (TLPGA) suggested deletion of the word "measuring." The commission disagrees with this recommendation as this subsection is meant to ensure that a proper amount of mal-odorant is introduced into the particular LP-gas system. As such, the commission feels the word "measuring" should remain in the subsection as adopted.

Concerning §9.31(g), the commission has deleted the words "Transfer of Liquids" for purposes of clarity.

Concerning §9.34(a), the commission has added language to clarify that the division director may, at his discretion, require containers and assemblies to be examined even if an acceptable LPG Form 23 regarding such containers and assemblies has been previously submitted. The commission has added this language in order to ensure that the division director is able to fulfill his statutory duty of protecting the health, safety, and welfare of the general public.

Concerning §9.34(b), the TLPGA suggested adding language to clarify that the subsection applies only to ASME containers which have previously been in LP-gas service. The commission agrees and has made these changes.

Concerning §9.34(d), the TLPGA recommended repeal of this section because the fact that this was a new proposal was not indicated in the proposal Published in the October 14, 1988, issue of the *Texas Register*. The TLPGA is correct, but the commission does not feel that this error merits repeal of this section. Additionally, the TLPGA noted that requiring out-of-state containers to be tested in accordance with §9.34(b) was unduly expensive and time consuming. Alderman Associates also filed comments regarding §9.34(d) and requested the addition of language which would clarify when retesting of containers is required. In response to the concerns raised by both the TLPGA and Alderman Associates, the commission has added an exception following subsection (d) which would allow ASME containers which have been subject to continuous LP-gas vapor pressure, and which are owned by a company or person having a current LP-gas license in Texas to be used in Texas without being re-tested if the licensee submits an acceptable LPG Form 23 (statement in lieu of container testing).

Finally, concerning §9.34(b), (c), (d), and the exception, the commission has added the word "stationary" between the words "any" and "ASME" for purposes of clarity.

Concerning §9.46(e), the TLPGA suggested an exception be added which noted that this section does not apply to domestic installations. In addition, the TLPGA suggested adding language allowing the division director to exercise his discretion regarding enforcement of this section. The commission has reconsidered this subsection and has decided to delete it because the commission feels that the substance of this section is adequately addressed in §9.65 (concerning LP-gas storage distance requirements).

Concerning §9.50(b), the commission has changed the date in order to reflect the effective date of this subsection.

Concerning §9.64(i) and (k), the TLPGA suggested the addition of language for the purpose of clarity. The commission has decided to withdraw all proposed amendments to §9.64 and resubmit them at a later date.

Concerning §9.65, the TLPGA noted that portions of this section were also addressed in §9.29(d). This is true, but the commission does not feel that this merits any changes to §9.29 or §9.65.

In addition, the commission has changed the date in §9.65(e) from February 1, 1989, to June 1, 1989, in order to reflect the effective date of this section. The commission has also made additional changes to subsection (e) for the purposes of clarity.

Concerning §9.68, the TLPGA sought clarification on the reference to Figure 1 in subsections (a) and (b). The commission has added language which explains and clarifies the reference to Figure 1. Additionally, the commission has changed the date in subsections (a) and (b) from February 1, 1989, to June 1, 1989, in order to reflect the effective date of this section.

• 16 TAC §§9.31, 9.34, 9.46, 9.50, 9.59, 9.61, 9.65

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Division Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.31. Odorizing Gases.

(a) All LP-gases shall be odorized by the refinery, processing plant, loading rack, pipeline terminal, marine terminal, or underground storage facility prior to delivery to a distributing plant, distributing point, or an industrial plant by the addition of a warning agent of such character that they are detectable by a distinct odor, down to a concentration in air of not over one-fifth of the lower limits of flammability. The odorization requirements shall be considered to be met by the use of 1.0 pound of ethyl mercaptan per 10,000 gallons of LP-gas. However, this listing of odorant and quantity shall not exclude the use of other odorants that meet the odorization requirements.

(b) It is not intended by these rules to require the odorization of liquefied petroleum gas used, or to be used, in natural gasoline extraction plants, recycling plants, chemical plants, carbon black plants, pipelines connected thereto, or where liquefied petroleum gas to be used is harmful to the end product. Provided, however, in such plants where any liquefied petroleum gas is used, or to be used, for heating, domestic water heating, cooking, and/or liquefied petroleum gas used primarily for furnishing heat for office or living quarters, or vehicular use, shall be odorized.

(c)-(d) (No change.)

(e) When in the opinion of the commission there exists the possibility of insufficient odorization, testing may be required to determine its sufficiency. The testing shall be performed by a recognized testing laboratory equipped for and experienced in testing of odorization.

(f) The malodorant agent shall be introduced by a closed measuring injection system.

(g) The person odorizing the gas shall be responsible for completing the required information on the manifest as set forth in §9.148 and §9.518 of this title (relating to Manifest).

§9.34. Examination of Containers.

(a) At the request of the division director, when in his opinion such action is necessary, containers and assemblies shall be examined by a recognized testing laboratory equipped for and experienced in the testing of liquefied petroleum gas containers and equipment and a comprehensive report on the findings of such testing laboratory shall be submitted to the Railroad Commission for its consideration. This subsection can be applied even though an acceptable LPG Form 23 (statement in lieu of container testing) has been received.

(b) Any stationary American Society of Mechanical Engineers (ASME) LP-gas container previously in LP-gas service which has not been subject to continuous LP-gas vapor pressure must be retested by at least two of the following nondestructive test methods recognized by ASME to determine if the container or assembly is safe for LP-gas use in the State of Texas. The test results must be submitted on an LPG Form 8 (manufacturer's report of pressure vessel repair, modification or testing):

- (1) hydrostatic test;
- (2) ultrasonic thickness test; or
- (3) wet particle fluorescent or magnaflux.

(c) Any stationary ASME LP-gas container which has been subject to continuous LP-gas vapor pressure need not be tested prior to installation, provided an acceptable LPG Form 23 (statement in lieu of container testing) is filed with the division at the time an LPG Form 500 (application for tentative approval of LP-gas installation), is submitted for any facility requiring submission of plans and specifications in accordance with §9.29 of this title (relating to Filings Required for LP-Gas Installations).

(d) Any stationary ASME LP-gas container brought into Texas from out-of-state and intended for stationary LP-gas installation in Texas at any facility requiring submission of plans and specifications, must be tested in accordance with subsection (b) of this section prior to tentative approval being granted by the division. Exception: If any stationary ASME LP-gas container which has been under continuous LP-gas vapor pressure is owned by a company having a current LP-gas license in the State of Texas, such tests may not be necessary upon the receipt of an acceptable LPG Form 23 (statement in lieu of container testing).

§9.46. Installation of Pressure Relief Valves.

(a) Pressure relief valves shall be installed directly to the appropriate nozzle opening of the container.

(b) Each pressure relief valve on all aboveground (AG) stationary containers of 2,000 water gallons capacity or more shall be vented upward and unobstructed to a minimum of seven feet above the top of the container. Each vent shall be metallic pipe or tubing, threaded and secured in place with proper relief valve pipeway adapters and shall be of adequate size not to restrict discharge flow. Exception: vertical containers 15 feet or more in height shall be exempt from such venting requirement.

(c) All exposed pressure relief valves on stationary ASME containers shall discharge vertically upward and shall be fitted with loose fitting rain caps. A drain shall be provided to prevent any liquid or condensate that may accumulate inside the relief valve or its vents from rendering the relief valve inoperative. If a bottom drain is used, where necessary a weep hole deflector shall be installed to protect the container, adjacent containers, piping, or equipment against impingement of flame resulting from ignition of product escaping from the drain.

(d) No shut-off valve shall be placed between the container and pressure relief valves except where a positive mechanical means is provided to prevent the reduction of relieving capacity below that required for the vessel to which it is attached.

§9.65. LP-Gas Storage Distance Requirements.

(a)-(d) (No change.)

(e) LP-gas installations completed on or after June 1, 1989 involving multi-container installations of 1,000 water gallon individual container capacity or greater shall have a minimum three feet separation from adjacent LP-gas containers and shall not be positioned end to end or perpendicular to other LP-gas containers.

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 April 10, 1989.

TRD-8903305

Cril Payne
Assistant Director
Legal Division-General Law

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949

• 16 TAC §9.53, §9.68

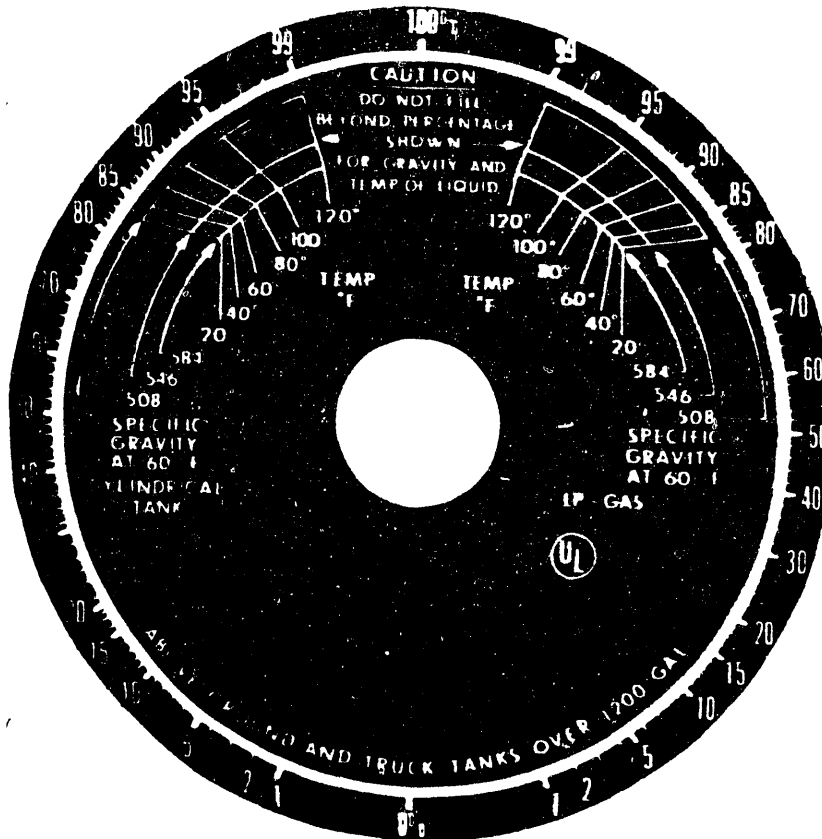
The new sections are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.68. Approved Gauging Devices.

(a) All American Society of Mechanical Engineers (ASME) containers manufactured after June 1, 1989, shall be equipped with a fixed or rotary tube liquid level gauging device. Such devices shall be

readily accessible and shall be used at time of filling operation to ensure the container is not filled in excess of the maximum permitted filling density as required by §9.47 of this title (relating to Filling Density). Refer to §9.923 of this title (relating to Appendix C) for method of calculating length of fixed tube. If applicable, see Figure 1 in this section for quick reference to determine the maximum permitted filling density for aboveground and truck containers over 1,200 gallons. Gauging devices of the fixed or rotary tube may be used without the installation of an excess flow valve, provided bleed valve opening is not larger than a Number 54 drill size.

(b) Approved gauging devices for ASME containers constructed prior to June 1, 1989, are a slip tube, fixed tube, rotary-magnetic, or rotary tube. Refer to §9.923 of this title (relating to Appendix C) for method of calculating length of fixed tube. If applicable, see Figure 1 in this section for quick reference to determine the maximum permitted filling density for aboveground and truck containers over 1,200 gallons. Gauging devices of the slip tube, fixed tube, or rotary tube may be used without the installation of an excess flow valve provided the bleed valve opening is not larger than a Number 54 drill size.



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 April 10, 1989.

TRD-8903304

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commissioner of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
The Railroad Commission of Texas adopts

amendments to §§9.72, 9.77, and 9.79. The commission also adopts new §9.73. Section 9.73 and §9.77 are adopted with changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). Section 9.72 and §9.79 are adopted without changes and will not be republished.

The amendments to §§9.72, 9.77, and 9.79 as well as new §9.73 are adopted to clarify existing rules and assure uniformity with current Department of Transportation regulations and other current national LP-gas safety standards.

Sections 9.72, 9.77, and 9.79 concern the required markings to be placed on Department of Transportation (DOT) LP-gas containers, the weighing procedures to be utilized in filling LP-gas containers, and the proper disposition of rejected containers.

New §9.73 requires that DOT containers be refilled, transported, or continued in service only if they have been qualified or requalified before filling in accordance with DOT regulations. Additionally, containers, must under the section as adopted, at all times be clearly stamped in order to show they have been properly requalified for use. The section as adopted provides three methods or tests by which containers may be requalified for a period of 12 years. Under the internal hydrostatic test a container may requalify for a period of seven years, while under the external visual inspection test, a container may requalify for only a five-year period of use before having to be reinspected.

Comments concerning §9.73 and §9.77 were received by the commission.

Concerning §9.73, the Texas LP-Gas Association (TLPGA) noted a typographical error in

subsection (d) which the commission has corrected. Additionally, the commission has, for purpose of clarity, amended the title to the table in subsection (b) to reflect the intent of the commission in including this table in this section. As indicated by the explanatory comment which the commission has added to this section, this table is intended as a guideline only and should not be considered an exclusive list of permissible containers to be used.

Concerning §9.77(a), the TLPGA recommended language to clarify the weighing procedure for DOT containers. The commission has not adopted the changes suggested by the TLPGA, but has added language to clarify this subsection.

• 16 TAC §§9.72, 9.77, 9.79

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.77. *Filing of Department of Transportation Containers.*

(a) DOT containers of less than 101 pounds LP-gas capacity shall be filled by weight only. The weight of such containers shall be determined by commercial scales currently registered with the Texas Department of Agriculture, except as provided in §9.305 of this title (relating to Charging of Containers) .

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

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 April 10, 1989.

TRD-8903303

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

• 16 TAC §9.73

The new section is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.73. *Requalification Requirements.*

(a) DOT containers may not be re-filled, continued in service, or transported unless they are properly qualified or requalified for LP-gas service in accordance with the DOT regulation.

(b) Such containers shall at all times be plainly stamped to show that they have been requalified within the required test period.

MOST PREVALENT DOT SPECIFICATION NUMBERS FOR LP-GAS CONTAINERS *

COMMONLY USED

DOT 4B
" 4BA
" 4BW
" 4E
" 4B ___ FLW
ICC 26-240
" 26-300

MAY BE USED

DOT 3A
" 3AA
" 3B
" 3E
" 4B ___ ET

*These specification numbers serve as a guideline only and are not intended to be an exclusive listing of acceptable specification numbers.

(c) DOT containers must be requalified before filling after the expiration of 12 years from the original manufacturer's inspection date. This retest and/or inspection may be performed as follows:

REQUALIFIES

FOR A

TYPICAL

METHOD

PERIOD OF

MARK

Hydrostatic Expansion Test	12 years	1-80
Internal Hydrostatic Test	7 years	1-80S
External Visual Inspection	5 years	1-80E

(d) A container manufactured in January, 1980 requires test or inspection prior to January, 1992. If it is then stamped 1-92 it is qualified until January 2004 (expansion test method); if it is stamped 1-92S (internal hydrostatic test method), it is qualified until January 1999; and, if it is stamped 1-92E, it is qualified until January, 1997 (external visual inspection method).

(e) Regardless of tests performed, each container must be carefully inspected for defects at the time of each filling and removed from service if any signs of defects are observed as set forth in §9.79 of this title (relating to Examination of Containers).

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 April 10, 1989.

TRD-8903302
Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
Subchapter D. Division II

• 16 TAC §9.91

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903300
Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
• 16 TAC §§9.94, 9.95, 9.98

The Railroad Commission of Texas adopts the repeal of §§9.94, 9.95, and 9.98 and the amendment to §9.91, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The Railroad Commission of Texas has also previously withdrawn the proposed repeal of §9.96 (14 TexReg 975).

Sections 9.94, 9.95, and 9.98 concern discharge from safety relief valves, raincaps, and liquid level gauging devices. The amendment to §9.91 involves the deletion of subsection (b) and the relettering of the remaining subsections. Section 9.96 concerns regulator relief valves.

Section 9.94 is addressed in §9.46 and §9.95 has been incorporated into §9.46. The repeal of these sections and the amendment to §9.91 (concerning regulator relief valves) serve to clarify the existing rules and to assure uniformity with current Department of Transportation and other current national LP-gas safety standards. The proposed repeal of §9.96 was made in error and the section as currently written will remain in force.

No comments were received regarding adoption of the repeals or amendment.

The repeals are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903301
Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
Subchapter E. Division III

• 16 TAC §9.127, §9.132

The Railroad Commission of Texas adopts the repeal of §9.127 and §9.132, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The commission has previously withdrawn the proposed repeal of §9.129 and proposed new §9.129 (14 TexReg 975) which requires a pressure gauge to be placed on all bulk storage containers.

Section 9.127 and §9.132 have been incorporated into other sections and hence the commission adopts the repeal of these sections in order to clarify the existing rules and to assure uniformity with current Department of Transportation Regulations and other current national LP-gas safety standards.

Section 9.127 and §9.132 concern the discharge from relief valves on bulk storage containers, and the testing of relief and excess flow valves on bulk storage containers.

By withdrawing the proposed repeal of §9.129 and the proposed new §9.129, the commission intends for §9.129 as currently written to remain in force. The commission will amend §9.129 at a later date.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903299
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Assistant Director, Legal
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Railroad Commission of
Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆ Subchapter F. Division IV

• 16 TAC §§9.139, 9.148-9.150, 9.152, 9.157, 9.159-9.161, 9.164-9.170

The new sections are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.150. Securing of Portable Containers. Portable containers shall be braced so as to prevent relative motion while in transit and secured in such position that the relief valve communicates with the vapor space of the container.

§9.168 Lettering. Refer to §9.502 in Division XIV of this title (relating to Markings and Inspection Requirements).

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 April 10, 1989.

TRD-8903292

Crit Payne
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Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆ • 16 TAC §§9.144, 9.153, 9.154

The Railroad Commission of Texas adopts amendments to §§9.144, 9.153, and 9.154. In addition, the commission adopts the repeal of §§9.148-9.150, 9.152, 9.157, 9.159, 9.161, and 9.164-9.168. The commission further adopts new §§9.139, 9.148-9.150, 9.152, 9.157, 9.159-9.161, and 9.164-9.170. The commission is withdrawing the proposed new §9.140 and the proposed new §9.143 and §9.146. The proposed repeal of current §9.143 and §9.146 have been previously withdrawn (14 TexReg 975). As a result, §9.143 and §9.146 as they are currently written will remain in force. The commission plans to amend these sections at a later date.

New §§9.148, 9.150, 9.168, and amended §9.154 are adopted with changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The amendments to §9.144 and §9.153, the repeal of §§9.148-9.150, 9.152, 9.157, 9.159, 9.161, and 9.164-9.168, and new §§9.139, 9.149, 9.152, 9.157, 9.159-

9.161, 9.164-9.167, 9.169, and 9.170 are adopted without changes and will not be republished.

Subchapter F contains rules and regulations concerning the design and construction of cargo containers used primarily for the transportation and distribution of LP-gas. In addition, Subchapter F contains safety rules and regulations for trucks and trailers used primarily for transporting LP-gas in portable cargo containers.

In order to update the present rules and regulations to comply with current MC 330 and 331 Department of Transportation specifications, the commission is adopting new Subchapter P, §§9.499-9.512, 9.514-9.525 (concerning the specifications utilized in the construction of cargo containers used in transporting and distributing LP-gas). The specifications in the newly adopted sections are the standards by which cargo containers and trucks used to transport those containers will be licensed.

Under Subchapter F as adopted, certain nonspecification cargo containers (i.e. those not meeting the standards in the newly adopted Subchapter P) may continue to be used for the transportation and distribution of LP-gas in Texas. Specifically, those containers with a minimum working pressure of 200 psig or more which are registered with the division by June 1, 1989, may continue to be used for the transportation and distribution of LP-gas. In addition, under the rules as adopted, the nonspecification units in excess of 3,500 water gallons can also continue to be used even though such units are not exempted under DOT regulations.

Comments concerning §§9.140, 9.148, 9.150, 9.154, and 9.168 were received by the commission.

Concerning §9.140(a)(5)(C) and (D), the Texas LP-Gas Association (TLPGA) suggested that this portion of this subsection be renumbered for clarification purposes. As explained following the commission is withdrawing §9.140, and therefore this request is moot.

Further, concerning §9.140, the commission received comments from TLPGA and 36 individuals. While TLPGA reluctantly supported the phase-out of 200 psig cargo containers mandated by this proposed section, the overwhelming majority of the individuals submitting comments opposing the adoption of §9.140. The reasons most consistently cited by those opposing §9.140 were that 200 psig containers have been and will continue to be safe for use in transporting LP-gas and that phasing out these containers would have a grave financial impact on small businesses. Those who did support adoption of the proposed section requested that the phase-out period be extended. For: TLPGA and three individuals; Against: 33 individuals.

In responses to the strong opposition to §9.140 by those who would be forced to comply with it, the commission has decided to withdraw this section.

Concerning §9.148, the commission has deleted the phrase "Transfer of Liquids" in the title and body of the section for clarification purposes.

Concerning §9.150, TLPGA suggested that the section be rewritten for purposes of clarification. The commission agrees and has re-

written the section as suggested by the association.

Concerning §9.154(a), TLPGA requested the addition of examples to illustrate the types of brakes which will be acceptable under this section. The commission has decided to delete the last sentence of this subsection as regulation of semi-trailer brake systems is more properly within the jurisdiction of the Texas Department of Public Safety (DPS). In addition, the commission has deleted §9.154(b) pertaining to lighting equipment which is also within the jurisdiction of DPS.

Concerning §9.168, the commission has stricken the word "placarding" from the section since regulation of placarding is enforced by DPS.

The amendments are adopted under the Texas Natural Resources Code, §113.501, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.154. Truck Containers and Semi-Trailer Containers. All semi-trailer containers shall be of the fifth wheel type and shall be attached to the tractor in such manner as to positively prevent separation of the tractor and semi-trailer while the combination is in motion.

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 April 10, 1989.

TRD-8903296

Crit Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆ • 16 TAC §§9.148-9.150, 9.152, 9.157, 9.159, 9.161, 9.164-9.168

The repeals are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903291

Crit Payne
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For further information, please call: (512) 463-6949.

Subchapter G. Division V

• 16 TAC §9.177

The Railroad Commission of Texas adopts an amendment to §9.177, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111).

The section as currently written contains a reference to Appendix E (§9.325 of this title). Under the section as adopted the reference is changed to Appendix C (§9.923 of this title). The commission adopts this amendment to clarify the existing section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903289 Cril Payne
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For further information, please call: (512) 463-6949.

Subchapter H. Division VI

• 16 TAC §9.201, §9.203

The Railroad Commission of Texas adopts amendments to §9.201 and §9.203, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111).

The sections are being amended to provide a formula for calculating a safe and effective rate of discharge.

The commission adopts the amendments to clarify the existing sections and assure uniformity with other current national LP-Gas safety standards.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect, the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903288 Cril Payne
Assistant Director, Legal
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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

Subchapter I. Division VII

• 16 TAC §9.210

The Railroad Commission of Texas adopts new §9.210, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111).

The new section will define low-pressure and high-pressure gas piping and list those sections of the safety rules pertaining to each. The commission adopts the new section to clarify the existing sections.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect, the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903288 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

Subchapter K. Division IX

The Railroad Commission of Texas adopts the repeal of §9.263 and amendments to §9.270. Section 9.270, is adopted with changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The repeal of §9.263, is adopted without changes and will not be republished.

The commission adopts the repeal of §9.263, because the contents of this section have been incorporated into other sections of the safety rules. The commission adopts the amendment to §9.270 in order to clarify the

existing section.

Comments concerning §9.270 were received by the commission.

Concerning §9.270, the Texas LP-Gas Association recommended rewriting of the section in order to incorporate a distance factor in subsection (b). The commission is studying this suggestion, but has made no final decision on the comment at this time. For that reason, the commission is striking the amendments to subsection (b) and is adopting the subsection as it read before the amendment was proposed. The commission adopts the remainder of the amendments to §9.270 as proposed.

§16 TAC §9.263

The repeal is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the

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 April 10, 1989.

TRD-8903287 Cril Payne
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Railroad Commission of
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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

• 16 TAC §9.270

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect, the health, safety, and welfare of the general public.

§9.270. Dispensing Devices.

(a) (No change.)

(b) LP-gas shall be transferred from the storage containers by means of pumps so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge. A supplemental remote control shall be provided outside the dispensing device whereby the source of power to the pump may be readily shut off in the event of fire or other accident.

(c) (No change.)

(d) Dispensing Hose Specifications. (see §9.54(a)-(e) of this title (relating to Hose Specifications)).

(1) (No change.)

(2) Hose used for transferring liquid from one container to another shall be equipped with shutoff valves at the discharge end.

(e) Location.

(1) (No change.)

(2) LP-gas dispensing devices shall be installed on a concrete island or as part of a complete storage and dispensing assembly and shall be adequately protected from physical damage by guardrails or fencing. Guardrails and fencing must be installed in accordance with §9.63 of this title (relating to Uniform Protection Standards).

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.

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TRD-8903286

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Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

The Railroad Commission of Texas adopts the repeal of §9.288 and the amendment to §9.290, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111).

The commission adopts both the repeal of §9.288 and the amendment to §9.290 in order to clarify the existing rules.

Current §9.288 states that hose specifications are set forth in §9.54 of the safety rules and the commission is repealing §9.288 to clarify the existing rules. The amendment to §9.290 clarifies a reference to §9.923 (concerning Appendix C) and incorporates §9.923 into §9.290 for all purposes as the method for calculating the length of a fixed tube.

No comments were received regarding adoption of the repeal or amendment.

• 16 TAC §9.288

The repeal is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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.

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TRD-8903285

Ciril Payne
Assistant Director, Legal
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Railroad Commission of
Texas

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For further information, please call: (512) 463-6949.

◆ ◆ ◆
Subchapter L. Division X

• 16 TAC §9.290

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903284

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Texas

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For further information, please call: (512) 463-6949.

◆ ◆ ◆
Subchapter M. Division XI

• 16 TAC §9.309

The Railroad Commission of Texas adopts the repeal of §9.309, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). In addition, the commission withdraws proposed new §9.310.

The commission adopts the repeal of §9.309, because it has been incorporated into other rules.

Comments concerning §9.310, BMS, Inc., submitted comments which stated that §9.310 as proposed was vague. BMS requested that the commission add language which would specify when pumps for private forklift refueling would be required. The commission has decided to withdraw this new section which renders moot the request by BMS, Inc.

The repeal is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of general public.

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 April 10, 1989.

TRD-8903282

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Texas

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Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
Subchapter N. Division XII

• 16 TAC §9.340

The Railroad Commission of Texas adopts an amendment to §9.340, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111).

The amendment to §9.340(a) will delete the requirement that a manufacturer's data report on the fuel storage container be submitted to the LP-Gas Division for review prior to the installation of an automatic dispenser. In addition, the amendment will delete the language in §9.340(a), which states that a manufacturer's data report on the fuel storage container is not required to be submitted if the container has been previously approved for service for its present use and location. Finally, the amendment to §9.340(a), substitutes the word container for the word tank. The commission adopts this amendment in order to clarify the existing rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903281

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Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

◆ ◆ ◆
Subchapter O. Division XIII

• 16 TAC §9.414

The Railroad Commission of Texas adopts an amendment to §9.414, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The proposed amendment to §9.410 are withdrawn.

The amendment to §9.414, adds new subsection (f) which requires fuel storage regulators to be equipped on the low pressure side with relief valves. It is adopted to assure uniformity with current national standards for LP-gas fuel systems installed on recreational vehicles.

Comments concerning §9.410 were received by the commission.

Concerning §9.410, the Recreational Vehicle Industry Association requested that subsections (c), (d), and (e) be withdrawn because similar rules are currently being considered by the National Fire Protection Association Committee on Fire Safety for Recreational Vehicles. The association suggested that the commission resubmit the amendments to this section after the National Fire Protection Association has acted in order to assure uniformity of rules within the recreational vehicle industry. The commission agrees with this suggestion and is withdrawing all amendments proposed to §9.410. The commission intends for current §9.410 to remain in force.

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operation which will protect or tend to protect, the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903280 Crie Payne
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Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512) 463-6949.

Subchapter P. Division XIV

• 16 TAC §§9.499-9.512, 9.514-9.525

The Railroad Commission of Texas adopts new §§9.499-9.512, 9.514-9.525. Sections 9.500, 9.502, 9.503, 9.507, 9.518, 9.520, 9.524, and 9.525 are adopted with changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). Sections 9.499, 9.501, 9.504-9.506, 9.508-9.517, 9.519, and 9.521-9.523 are adopted without changes and will not be republished. Finally, the commission withdraws proposed new §9.526.

Subchapter F contains rules and regulations concerning the design and construction of cargo containers used primarily for the transportation and distribution of LP-gas. In addition, Subchapter F contains safety rules and regulations for trucks and trailers used primarily for transporting LP-gas in portable cargo containers.

In order to update the present rules and regulations to comply with current MC 330 and 331 Department of Transportation specifications, the commission adopts new Subchapter P, §§9.499-9.512, 9.514-9.525 concerning the specifications utilized in the construction of cargo containers used in transporting and distributing LP-gas. The specifications in the newly adopted sections

are the standards by which cargo containers and trucks used to transport those containers will be licensed in the future.

Under Subchapter F as adopted, certain nonspecification cargo containers (i.e. those not meeting the standards in the new Subchapter P), may continue to be used for the transportation and distribution of LP-gas in Texas. Specifically, those containers with a minimum working pressure of 200 psig or more may continue to be used for the transportation and distribution of LP-gas. In addition, under the rules as adopted, those nonspecification units in excess of 3,500 water gallons can also continue to be used even though such units are not exempted under DOT regulations.

Comments concerning §§9.501, 9.502, 9.503, 9.506, 9.507, 9.518, 9.520, and 9.524-9.526 were received by the commission.

Concerning §9.500, the proposed section would have required that all transports not registered with the division prior to September 1, 1989, meet MC-330 or MC-331 DOT specifications which require that transports have a minimum working pressure of 250 psig. The commission has decided that June 1, 1989, is a more appropriate date for requiring compliance with the MC-330 and MC-331 DOT specifications. Accordingly, the date September 1, 1989, in proposed §9.500 has been changed to June 1, 1989. Therefore, 200 psig transports may continue to be used to transport LP-gas in Texas only if they are registered with the division by June 1, 1989.

Concerning §9.501(b), the Texas LP-Gas Association noted a typographical error which has been corrected. In addition, Roadrunner Energy, Inc. suggested a five year phase-in period for §9.501 so that tanks which have not been tested within the last five years will not be held in violation of the new rules on the date they become effective. The commission responds by noting that this section, in effect, allows for a four year phase in period since the testing and inspection requirements under §9.501 and §9.524 will not take effect until the rules become effective. Therefore, on June 1, 1989, the date these rules become effective, operators will have until September 1, 1993, to meet the requirements of §9.501 and §9.524.

Concerning §9.502, the Texas LP-Gas Association recommended withdrawal of subsections (a)-(e) and Table 9.502 because these subsections and table were repetitious of Department of Transportation (DOT) law which is enforced by the Texas Department of Public Safety (DPS). The commission agrees that placarding applies to all hazardous materials and not just to LP-gas and as such is more properly governed by the DOT regulations as enforced by the DPS. For this reason, the commission is deleting subsection (d) and all other references to placarding in both §9.502 and Table 9.502. The remaining amendments to §9.502 are adopted in order to comply with current DOT lettering size and specification requirements. Unlike DOT regulations, however, commission rules will continue to require LP-gas trailers to be lettered with the name of the licensee or the name of the ultimate consumer operating the unit. The commission feels this regulation to be justified on the basis of safety.

As a result of the deletion of subsection (d),

proposed subsection (e) will be relettered and adopted as subsection (d) the words "and placard" will be stricken. Proposed subsection (f) will be relettered as subsection (e). In adopted subsection (e), the commission has substituted the word "six" for the word "two" in order to be consistent with subsection (a) of this section.

Concerning §9.503(b), the Texas LP-Gas Association suggested deleting the phrase "stainless steel wire braided." The commission has stricken the words "stainless steel" in the final section in response to this comment, but has retained the requirement that, when necessary, pumps be connected by use of "wire braided reinforced hose connectors."

Concerning §9.506, one commenter noted that none of his bobtails are equipped with internal valves as described in this section and that to install such valves would be a considerable expense. As he noted in his comments this commenter was referring to 200 psig cargo containers. The commission points out that §9.506 applies only to 250 psig cargo containers constructed to MC 33/331 specifications, and does not require the installation of internal valves on 200 psig containers. As such, the commission has adopted this section as it was proposed without changes.

Concerning §9.507, the commission has for purposes of clarification spelled out the acronym in this rule.

Concerning §9.518, the Texas LP-Gas Association suggested changing the title to "Manifest" and adding a sentence regarding the manifest. The commission agrees and has made these changes.

Further, concerning §9.518, a commenter noted that this section should not apply to persons transporting "Y grade", "Raw Make" or "Raw Mix" propane, all of which refer to propane which is not suitable for use by ultimate consumers. The commission intends that this section apply only to those transporting a final product suitable for consumption by ultimate consumers. The concern expressed by the commenter then is not affected by the adoption of §9.518. As such, the section is adopted without changes.

Concerning §9.520, the commission has added the word "public" between the words "any" and "street" for clarification purposes.

Concerning §9.524, Roadrunner Energy, Inc. suggested a five year phase-in period for this section. To clarify any confusion regarding the operation of both §9.501 and §9.524, the commission has added an example in §9.524, which it feels will alleviate the concerns of Roadrunner and any others regarding this section. Further, the Texas LP-Gas Association commented in support of this section provided that it did not materially alter existing practices of equipment purchase, sale, and transfer. The commission has sought, through adoption of this section, to clarify the existing rules on this subject. In subsection (a) it is a requirement that prior to the issuance of a Form 4 decal the transport must be tested and physically inspected at least once in the preceding five years. Therefore, the word "or" has been changed to the word "and". The primary aim of §9.524(e) is to ensure that upon the purchase, sale, or transfer of an LP-gas cargo container, the new owner or transferee re-register the con-

tainer before placing it into LP-gas service. The commission is of the opinion that the section as adopted accomplishes this goal.

Concerning §9.525, the Texas LP-Gas Association questioned the prohibition against towing additional trailers in subsection (e) in light of federal law which authorizes this practice. The commission disagrees and is adopting subsection (e) as proposed. The commission points out the availability of the exception procedure to the LP-gas safety rules under §9.21 for anyone wishing to tow an additional trailer. The commission feels this is the best method by which to address any safety concerns raised by this practice. In addition, the commission has changed the date in subsections (f) and (g) in order to reflect the effective date of this section. Finally, the commission has amended the formula in subsection (g)(1) for clarification purposes.

Concerning §9.526, the commission has withdrawn the entire section since the design of brake systems of LP-gas cargo container chassis is beyond the scope of the LP-gas division's jurisdiction.

The new sections are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry

and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.500. MC-330, MC-331 Department of Transportation Specification Requirements. All transports not currently registered with this division prior to June 1, 1989, must meet MC-330 or MC-331 DOT specifications.

§9.502. Markings and Inspection Requirements.

(a) Each LP-gas transport and each container delivery unit in LP-gas service shall be lettered with the name of the licensee or in the name of the ultimate consumer operating the unit. Such lettering shall be placed in accordance with the table in §9.502 of this title (relating to Markings and Inspection Requirements). The name shall be in legible letters not less than two inches in height in sharp color contrast to the background. Note: A final determination as to whether the name of such unit is sufficient to properly identify the name of the operator will be made by the director.

(b) Each LP-gas transport in LP-gas service shall be lettered "liquefied Petroleum gas" with "propane" or "butane" as acceptable substitutes and shall be placed in accordance with the table in §9.502 of this title (relating to Marking and Inspection Requirements). Such lettering shall be in legible letters not less than two inches in height in sharp color contrast to the background.

(c) The month and year of the latest date(s) on which a retest was conducted as required by §9.501 of this title (relating to Testing Requirements) shall be legibly marked on the tank(s) in numerals not less than 10 inches in height and placed near the DOT specification plate.

(d) All markings required under this section must be maintained in good, legible condition and visible at all times.

(e) Where a transport unit is loaned or leased for a period of time not to exceed 30 days, the unit may have painted or permanently affixed thereon, in lieu of the name of the licensee operating the transport unit, the name of the owner of the transport unit in letters not less than two inches in height.

Table 9.502

Markings, and Inspection Requirements

	Name of Licensee or Ultimate Consumer	Content		Re-test every _____ years	Visual Regualification every _____ years
	Both Sides OR Rear	Both Sides	Rear		
Cylinder Delivery Units	X				
LP-Gas Transports	X	X	X	5	5

§9.503. Mounting of Transfer Equipment.

(a) Transfer equipment, including pumps or compressors, may be mounted on a cargo unit, but shall not be located forward of the cab. Transfer equipment must be either hydraulically driven, or must be powered by the engine (which does not include an auxiliary engine) to which it is attached. (b) When flexible connectors are necessary, pumps shall be connected to the container(s) by means of an approved flexible wire braided reinforced hose connector.

(c) All flexible hose connector(s) shall be protected against abrasion or wear.

§9.507. Protection Against Contamination.

(a) Any cargo container that may have contained a product other than LP-gas must be thoroughly cleaned and purged prior to introducing LP-gas into such container. Only grades of LP-gas determined to be non-corrosive may be introduced into a cargo container. Non-corrosive means the corrosiveness of the gas does not exceed the limitation for classification 1 of the American Society of Testing Material (ASTM) copper strip classifications when tested in accordance with ASTM Publication D, 1838-64, "Copper Strip Corrosion of Liquefied Petroleum (LP) Gases." All materials of construction used in cargo containers and their appurtenances shall not be subject to destructive attack by the contents of the container.

(b) Any LP-gas introduced into a transport cargo container shall not contain anhydrous ammonia or hydrogen sulfide. When such a possibility exists the LP-gas shall be tested using the following tests:

- (1) litmus paper test for NH₃;
 - (2) lead acetate test for H₂S;
- and
- (3) test contained in for contaminants Gas Processors Association (GPA) 2140.

§9.518. Manifest. All manifest or bills of lading shall indicate the amount and type of odorant per gross gallons, the vapor pressure of the product at 100 degrees Fahrenheit, the net gallons, the loading temperature, specific gravity at 60 degrees Fahrenheit, the type of product, and United Nations number with verification by the loading entity and loader. A copy of the manifest or bill of lading shall be left with the entity receiving the shipment. Exception: Excluding those loads covered by permanent shipping paper(s) authorized by the Department of Transportation.

§9.520. Parking of LP-Gas Transports and Container Delivery Units. LP-gas transport or container delivery units (except in emergency) shall not be parked at night on any public street, highway, or alley. This

does not prevent the driver from necessary absences from the vehicle in connection with normal duties, nor shall it prevent parking for meals and rest stops. Such units must not be parked in a congested area and must be parked a minimum distance of 50 feet from any building, except buildings devoted exclusively to the transaction of LP-gas business operations.

§9.524. Issuance of LPG Form 4 Decal.

(a) An LPG Form 4 shall not be issued to any transport that has not been tested as required by §9.501 of this title (relating to Testing Requirements) at least once in the preceding five years and physically inspected by the division as required by §9.522 of this title (relating to Inspection of Cargo Containers). Example: An LP-gas transport registered as of September 1, 1988, shall be tested in accordance with §9.501 of this title (relating to Testing Requirements) and physically inspected in accordance with §9.522 of the title (relating to Inspection of Cargo Containers) by September 1, 1993, or an LPG Form 4 decal will not be issued until the requirements of this subsection have been met. An LPG Form 4 shall not be issued to any transport that has been determined as unsafe for LP-gas service by the division or a testing agency registered with this division in accordance with §9.501 of this title (relating to Testing Requirements).

(b) LPG Form 4, when issued by the director of the LP-Gas Division, Railroad Commission of Texas, and properly affixed in accordance with placement instructions, shall authorize the licensee or ultimate consumer to whom it has been issued and to no other person to operate such unit in the transportation of LP-gas and further shall authorize the filling of the cargo container(s).

(c) No person shall operate an LP-gas transport unit or container delivery unit in this state unless an LPG Form 4 authorizing its operation has been affixed in accordance with placement instructions or unless its operation has been specifically approved by a communication from the Railroad Commission of Texas.

(d) No person shall introduce LP-gas into a cargo container(s) unless an LPG Form 4 issued for that unit is properly affixed in accordance with placement instructions or unless specifically approved by communication from the Railroad Commission of Texas.

(e) The LPG Form 4 is not transferrable by the person, firm, or corporation to whom it has been issued, but must be registered by any subsequent licensee or ultimate consumer prior to being placed into LP-gas service.

§9.525. Container Appurtenances and Related Equipment.

(a) All transport containers shall be equipped with full baffles, adequate to prevent surging of container contents.

(b) Stops or other means must be provided to prevent relative motion between the container and the vehicle chassis when the vehicle is in operation.

(c) Cargo container(s) shall be mounted on vehicle frame with minimum grade of 8, 5/8 inch, hold down bolts. "U" or "J" bolts are prohibited.

(d) Acme-threaded adapters or hose couplings must be of brass material.

(e) All transport trailers shall be of the fifth wheel type and shall be directly attached to the tractor; the towing of additional trailers is prohibited.

(f) Each cargo container constructed after June 1, 1989, shall meet the following requirements.

(1) The minimum gross vehicle weight (GVW) must be stamped in letters not less than 3/8 inches in height on the Department of Transportation specification plate by the cargo container manufacturer.

(2) The chassis manufacturer's stated gross vehicle weight rating (GVWR) shall not be exceeded.

(3) The completed delivery unit (with chassis mounted cargo container) must have a container length to container diameter ratio of 2.25 or greater to one.

(g) Each cargo container mounted after June 1, 1989, must meet the following requirements.

(1) The front gross axle weight ratio (GAWR) must equal to 25% (+5%) of the GVW and the rear GAWR must equal to 75% (+5%) of the GVW. However, the manufacturer's (GAWR) shall not be exceeded.

(2) Tilt cab chassis must equal to 33 3/10% (+5%) of the GAWR and 66 66/100% (+5%) for the (GAWR). However, the manufacturer's (GAWR) shall not be exceeded.

(3) The cab to axle distance must be equal to or greater than two thirds of the container length.

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 April 10, 1989.

TRD-8903277

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988
For further information, please call: (512)
463-6949.

Subchapter Z. Appendices

The Railroad Commission of Texas adopts amendments to §§9.921, 9.923, 9.926, and 9.927 as well as the repeal of §9.922 and §9.924. The commission further adopts new §§9.922, 9.924, and 9.928. The amendments, repeals, and new sections are adopted without changes to the proposed text as published in the November 4, 1988, issue of the *Texas Register* (13 TexReg 5514).

The amendments to §§9.921, 9.923, 9.926, and 9.927, concern the calculation of the minimum required relieving capacity for pressure relief valves for containers not constructed to Department of Transportation specifications; the method for calculating the length of fixed tubes; the method for calculating the maximum volume of LP-gas which can be placed in a container for which the length of the fixed dip tube is set and the flow of LP-gas through fixed orifices. Repealed §9.922 and §9.924, relate to the minimum required rate of discharge of relief valves for LP-gas vaporizers and the method of calculating the maximum liquid volume which can be placed in a container at any liquid temperature. Finally, new §§9.922, 9.924, and 9.928 concern the approximate properties of LP-gases, formulas for calculating the maximum LP-gas capacity of containers, and an illustration of the distance requirements for LP-gas tank placement at residences and public buildings.

The commission adopts the amendments, repeals, and new sections to clarify the existing rules and to assure uniformity with current national safety standards as set forth in the National Fire Protection Association (NFPA) manual entitled *Standards for the Storage and Handling of LP-Gas*.

No comments were received regarding adoption of the amendments, repeals, or new sections.

• 16 TAC §§9.921, 9.923, 9.926, 9.927

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903276
Crl Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512)
463-6949

• 16 TAC §9.922, §9.924

The repeals are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903275
Crl Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512)
463-6949.

• 16 TAC §§9.922, 9.924, 9.928

The new sections are adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

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 April 10, 1989.

TRD-8903274
Crl Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1989

Proposal publication date: October 14, 1988

For further information, please call: (512)
463-6949.

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter H. Promotion and Alternatives to Social Promotion

• 19 TAC §75.196

The Texas Education Agency adopts new §75.196, without changes to the proposed text as published in the February 24, 1989, issue of the *Texas Register* (14 TexReg 980). The new section concerns the adoption by reference of a memorandum of understanding on coordination of services to

multiproblem children and youth among the agency, the Texas Department of Human Services, Texas Commission for the Blind, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, and Texas Youth Commission.

The intent of the proposed memorandum is to establish a system which ensures the coordination of services between agencies to multiproblem children and youth. The memorandum provides a definition of multiproblem children and youth and addresses the areas of financial and statutory responsibilities of each agency, interagency cost-sharing, elimination of duplicative services, interagency dispute resolution, and composition and operation of the local level groups designated to facilitate coordination. The text of the proposed memorandum is identical to what the Texas Department of Human Services published as adopted 40 TAC §72.701, in the March 10, 1989, issue of the *Texas Register* (14 TexReg 1293).

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Human Resources Code, §41.0011, requiring the Texas Education Agency, Texas Department of Human Services, Texas Commission for the Blind, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, and Texas Youth Commission to adopt by rule a memorandum of understanding to coordinate services for all multiproblem children and youth.

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 April 12, 1989.

TRD-8903310
W. N. Kirby
Commissioner of Education

Effective date: May 3, 1989

Proposal publication date: February 24, 1989

For further information, please call: (512)
463-9212

Chapter 149. Education Personnel Development

Subchapter C. Appraisal of Certified Personnel

• 19 TAC §149.43

The Texas Education Agency adopts an amendment to §149.43, with changes to the proposed text as proposed in the February 24, 1989, issue of the *Texas Register* (14 TexReg 680). The amendment concerns requiring all teacher appraisers to take 36-clock hours in instructional leadership training prior to taking teacher appraisal training.

Currently, the instructional leadership training program is a prerequisite for teacher appraisal training only for all certified administrators and supervisors. Some appraisers, such as peer teacher appraisers, are not cer-

tified administrators or supervisors and therefore are not required to complete the 36-clock hour training program prior to taking appraisal training. These amendments make the prerequisites for all teacher appraisal trainees uniform.

The wording of the amendment was changed to clarify the creditability of recent coursework already taken.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §13.302, which provides the State Board of Education with the authority to adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder purposes.

§149.43. Teacher Appraisal Procedures.

(a) Appraiser qualifications.

(1)-(4) (No change.)

(5) Before conducting appraisals, each appraiser must receive instructional leadership training, must receive uniform appraiser training, and must reach the required standard of proficiency as established by the State Board of Education. Coursework equivalent to the required instructional leadership training may be substituted if completed within three years prior to receiving appraisal training. Periodic recertification and appraisal training updates will be required for each appraiser.

(b)-(g) (No change.)

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 April 12, 1989.

TRD-8903309 W. N. Kirby
Commissioner of Education

Effective date: May 3, 1989

Proposal publication date: February 24, 1989

For further information, please call: (512) 463-9212

TITLE 22. EXAMINING

Part XV. Texas State Board of Pharmacy

Chapter 281. General Provisions

• 22 TAC §281.23

The Texas State Board of Pharmacy adopts new §281.23, without changes to the proposed text as published in the January 20, 1989, issue of the *Texas Register* (14 TexReg 444).

The new section will expedite the procedures for dealing with a pharmacist with a possible mental, chemical, or physical impairment, which may affect his/her ability to competently practice pharmacy.

The new section clarifies the administrative

procedures under which the board operates for show cause hearings on impaired pharmacists.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4542a-1, which provide the Texas State Board of Pharmacy with the authority to take disciplinary action against a pharmacist for mental, chemical, or physical impairment and allows the board to request that a pharmacist submit to a mental or physical examination.

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 April 12, 1989.

TRD-8903367 Fred S. Brinkley, Jr.
Executive Director
Texas State Board of Pharmacy

Effective date: May 4, 1989

Proposal publication date: January 20, 1989

For further information, please call: (512) 832-0661

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 19. Agent's Licensing

Subchapter N. Licensing and Regulation of Risk Managers

• 28 TAC §§19.1301-19.1320

The State Board of Insurance adopts new §§19.1301-19.1320. Section 19.1318 is adopted with a change to the proposed text as published in the October 18, 1988, issue of the *Texas Register* (13 TexReg 5242). Sections 19.1301-19.1317, 19.1319, and 19.1320 are adopted without changes and will not be republished.

Sections 19.1301-19.1320, concern licensing and regulation of risk managers. The Insurance Code, Article 21.14-1, §1, defines risk managers as persons who hold themselves out to the public and who for compensation, examine, assess, or evaluate risks for, and provide advice for reduction of risks to, persons who seek to obtain or renew property and casualty insurance coverage in this state. The new sections are necessary to record guidelines and procedures for the licensing of risk managers, who are required by the Insurance Code, Article 21.14-1, to be licensed by the State Board of Insurance. In response to comments, this adoption includes a change to §19.1318. The change modifies the title of the section, deletes subsections (b)-(d) as published, and changes what was published as subsection (a) to require written disclosure to insureds of dual compensation of persons licensed both under the Insurance Code, Article 21.14-1, and under the Insurance Code, Article 21.14, relative to the same policy placement within a 24-month period, rather than prohibiting such dual compensation outright.

Section 19.1301 sets forth the purpose, scope, and interpretation of the new sections. New §19.1302, defines the terms, "board," "code," "commissioner," "risk management," "risk manager," and "rules." New §19.1303, identifies and adopts by reference the forms an applicant for license must use. Copies of the forms have been filed with the Office of the Secretary of State, Texas Register Division. Section 19.1304, requires that each licensee keep the board informed of the licensee's current address. Section 19.1305, names the items which an applicant for license must file. New §19.1306, states the qualifications for obtaining a license as a risk manager. New §19.1307, describes an exemption from licensing as contained in the Insurance Code, Article 21.14-1, §3. Section 19.1308, identifies the procedure to be followed for making application for license. New §19.1309 establishes the requirement that a licensee maintain a place of business in this state.

New §19.1310, describes procedures to be followed by applicants for the examination process. Section 19.1311, sets examination and license fees. Section 19.1312, describes the procedure for license renewal. New §19.1313, identifies circumstances and procedures under which a risk manager's license may be denied, suspended, or revoked; and §19.1314 sets forth the duration of suspension of a license. Section 19.1315, provides that a license may not be reinstated or reissued for one year from the date of any suspension, revocation, or refusal to renew. New §19.1316, concerns licensing of persons who are not residents of Texas, and §19.1317 provides for licensing of non-residents by endorsement. New §19.1318, requires written disclosure to insureds of dual compensation under certain circumstances to persons licensed both under the Insurance Code, Article 21.14-1, and under the Insurance Code, Article 21.14. New §19.1319, sets forth the penalties contained in the Insurance Code, Article 21.14-1, for unlawful actions. §19.1320 requires distribution of copies of rules and other material to interested persons upon request.

Marsh and McLennan, Inc. commented against the adoption of §19.1318 as proposed. No comments were received concerning the other sections.

The commenters questioned the restrictiveness of the prohibition against dual compensation contained in §19.1318, noting that in some instances the prohibition might work against the interest of insurance consumers by limiting agents' ability to serve their clients. In response, the board changed the section to permit dual compensation but to require that any dual compensation within a 24-month period relating to the same policy placement must be fully disclosed in writing to the insured.

The new sections are adopted under the Insurance Code, Article 21.14-1, §15, which authorizes the State Board of Insurance to adopt necessary rules to carry out the article and to regulate and license risk managers.

§19.1318. Dual Compensation. A person licensed under the provisions of the Insurance Code, Article 21.14-1, who is also licensed under the Insurance Code, Article

21.14, and who receives a commission or compensation for his services as an agent licensed under the Insurance Code, Article 21.14, shall not be entitled to receive a fee for his services relative to the same policy placement as a risk manager within a 24-month period without full disclosure in writing of the fee to the insured.

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 April 12, 1989.

TRD-8903324 April 12, 1989
Nicholas Murphy
Chief Clerk

Effective date: May 4, 1989

Proposal publication date: October 18, 1988

For further information, please call: (512) 463-6327



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 43. CCAD

Eligibility

• 40 TAC §48.2911

The Texas Department of Human Services adopts an amendment to §48.2911, without changes to the proposed text as published in the February 14, 1989, issue of the *Texas Register* (14 TexReg 842).

The section is justified because it provides for more adequate in-home services for family care clients who are not eligible for Medicaid and primary home care and who need more than 20 hours of services per week.

The section will function by increasing (from 20 hours to 30 hours) the maximum hours of family care services a client may receive.

Two favorable comments were received from the Salvation Army and the Association for Retarded Citizens, Texas.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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 April 13, 1989.

TRD-8903358 Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: May 15, 1989.

Proposal publication date: February 14, 1989.

For further information, please call: (512) 450-3765



Part XII. Texas Advisory Board of Occupation Therapy

Chapter 374. Continuing Education

• 40 TAC §374.1

The Texas Advisory Board of Occupational Therapy adopts new §374.1, without changes to the proposed text as published in the January 3, 1989, issue of the *Texas Register* (14 TexReg 18).

The Texas Advisory Board of Occupational Therapy is adopting the new section to set forth the requirements for continuing education by occupational therapist and occupational therapy assistants as a prerequisite for license renewal.

The new section will function to protect the consumer from occupational therapy practitioners who fail to update their skills through continuing education.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 8851, §5(e), which provide the Texas Advisory Board of Occupational Therapy with the authority to adopt rules consistent with this Act to carry out its duties in administering the Act.

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 April 13, 1989.

TRD-8903357 Charles W. Schiesser
Assistant Commissioner
Texas Rehabilitation
Commission

Effective date: May 4, 1989

Proposal publication date: January 3, 1989

For further information, please call: (512) 445-8368



Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has adopted amendments to the *Texas Automobile Manuals II and III.*

The board has adopted physical damage rating symbols for certain 1989 model private passenger automobiles and adjusted 1989 model private passenger automobiles. The symbols adopted were developed from manufacturers F.O.B. list price data and adjusted in accordance with the prescribed vehicle series rating rule.

The F.O.B. list price/symbol chart from which the appropriate symbols are derived is on Page 2 of the Symbol and Identification Section of the *Texas Automobile Manual.*

If applicable, the appropriate symbol has been raised or lowered based on the experience thresholds set out in the vehicle series rating rule in the Symbol and Identification Section of the *Texas Automobile Manual.* The amendment is effective at 12:01 a.m. on the 60th day after notice of this action is published in the *Texas Register.*

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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 April 7, 1989.

TRD-8903405 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: June 20, 1989

For further information, please call: (512) 463-6327



The State Board of Insurance has adopted a filing submitted by Eagle Insurance Company of a credit insurance policy and rating plan to insure a purchaser of home improvement loans.

The credit insurance policy insures the purchaser of a home improvement loan against loss caused by the default of the borrower.

The policy covers the purchase price or the investment made in the home improvement loan. Submitted with the filing were a rate schedule and retrospective rating plan for this coverage. The rates and rating plan for this program were based on informed judgment.

The rate and rating plan will be reviewed by the State Board of Insurance within two years of the implementation of this program. This will enable the company to collect and monitor its experience and should provide an adequate opportunity to develop a basis for maintaining or revising the rates and rating plan.

This filing becomes effective at and after 12:01 a.m. on the 15 day after notice of this action is published in the *Texas Register.*

This notice is filed pursuant to the Texas Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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 April 12, 1989.

TRD-8903390 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: June 20, 1989

For further information, please call: (512) 463-6327



Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Adult Probation Commission

Thursday-Friday, April 27-28, 1989, 1 p.m. and 9 a.m. The Advisory Committee on Probation Department Management for the Texas Adult Probation Commission will meet in Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda summary, the committee will call order, introduce guests, approve minutes, consider adult probation legislation, planning and development, hear subcommittee reports, review of standards, consider other business, announcement, and set next meeting date and site.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: April 14, 1989, 3:28 p.m.

TRD-8903411

Texas Department of Agriculture

Wednesday, April 26, 1989, 1 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review alleged violations of Texas Pesticide Laws by Patrick Komegay, doing business as Sun Valley Dusting, holder of commercial applicator license.

Contact: Robert A. Caine, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: April 13, 1989, 10:22 a.m.

TRD-8903330

State Bar of Texas

Friday, Saturday, April 21-22, 1989, 9 a.m. The Board of Directors for the State Bar of Texas will meet in Room 104, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the

board will elect chairman of the board for 1989-1990; hear reports of chairman, president, executive director, general counsel, president-elect, immediate past president, immediate past chairman, TYLA president; report from insurance trust, committee on continuing legal education, committee on legal services to the poor in civil matters, status of legislative program, supreme court liaison, court of criminal appeals liaison, judicial section liaison and federal judicial liaison; comments of public members; status report on implementation of IOLTA program and possible impact on State Bar of Texas; and considerations and approvals as listed on agenda.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: April 13, 1989, 4:05 p.m.

TRD-8903360

Texas Department of Commerce

Wednesday, April 26, 1989, 8:30 a.m. The State Job Training Coordinating Council of the Texas Department of Commerce will meet in the Ballroom B, Stouffer Hotel, 9721 Arboretum Boulevard, Austin. According to the agenda summary, the council will consider policies for programs under the Job Training Partnership Act. The council will also take action on the following items: PY89 Title II state plan; PY89 Title III policies for substate plans; PY89 Title IIB plan approval; PY89 Title IVC policy; PY89 §123 policy; PY88 adjustments to performance standards; and PY89 six percent resource allocation policy.

Contact: Leslie Ross, 8317 Cross Park Drive, Austin, Texas 78754, (512) 834-6143.

Filed: April 17, 1989, 3:22 p.m.

TRD-8903472

Consumer Credit Section of the Finance Commission

Friday, April 21, 1989, 9 a.m. The Consumer Credit Section of the Finance Commission will meet at 2601 North Lamar, Austin. According to the agenda, the commission will discuss agency operations, proposed legislation, and personnel.

Contact: Al Endsley, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1280.

Filed: April 13, 1989, 2:15 p.m.

TRD-8903350

State Depository Board

Monday, May 1, 1989, 9:45 a.m. The State Depository Board will meet at the Office of the State Treasurer, LBJ Building, 111 East 17th Street, Austin. According to the agenda summary, the board will consider final adoption of proposed amendments to state depository board rule 34 TAC §171.1 and proposed new rules 34 TAC §171.2 and §172.1; and approve depository applications received.

Contact: Ann L. Schwartz, P.O. Box 12608, Austin, Texas, (512) 463-5971.

Filed: April 13, 1989, 11:04 a.m.

TRD-8903333

Employees Retirement System of Texas

Tuesday, April 25, 1989, 9 a.m. The Board of Trustees for the Employees Retirement System of Texas will meet in Room 401, ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will review and approve minutes to trustee meetings; consider/act on emergency/proposed amendment to §81.7 of trustee rules to change effective date of coverage charge of HMO enrollees moving out of an HMO service area; consider/act on emergency/proposed amendment to §81.7 of trustee rules to allow

employee/retiree HMO enrollees to add dependents in certain situations; consider/act on emergency/proposed amendment to §81.7 of trustee rules to clarify coverage options for employee/retiree HMO enrollees of an HMO which does not reapply or is not reapproved to participate in the Texas Employees Uniform Group Insurance Program during the next fiscal year; consider/discuss/act on proposed legislation; appeals of contested cases; hear executive director's report; meet in executive session; any action resulting from the executive session; and set date of next trustee meeting.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas, (512) 476-6431, ext. 213.

Filed: April 14, 1989, 1:32 p.m.

TRD-8903391

Texas Employment Commission

Monday, April 24, 1989, 2:30 p.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider for publication of rule regarding staff leasing industry; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on docket 17; and set date of next meeting. The commission will also meet in executive session on Texas chapter of the National Staff Leasing Association, et al v. Mary Scott Nabers, et al.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: April 14, 1989, 3:51 p.m.

TRD-8903402

Firemen's Pension Commission

Thursday, April 20, 1989, 9 a.m. The Administrative Division of the Firemen's Pension Commission met in emergency session in Suite 255, 3910 South IH-35, Austin. According to the agenda, the division discussed with their actuary the possibility of giving a cost of living increase during the current legislative session; state audit; and federal legislation. The emergency status was necessary to add an amendment to pending state legislation.

Contact: Helen Campbell, 3910 South IH-35, Suite 255, Austin, Texas 78704, (512) 462-0222.

Filed: April 17, 1989, 3:46 p.m.

TRD-8903479

Texas Funeral Service Commission

Monday-Wednesday, April 24-25, 1989, 9 a.m. The Texas Funeral Service Commission will meet at Allen Park Inn, 2121 Allen Parkway, Houston. According to the agenda, the commission will conduct formal hearings on action of licensees, executive director's report, and meet in executive session on Monday; conduct formal hearings on action of licensees on Tuesday; and discuss any items not considered on April 24 and 25 on Wednesday.

Contact: Larry A. Farrow, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753, (512) 834-9992.

Filed: April 14, 1989, 3:28 p.m.

TRD-8903410

Health and Human Services Coordinating Council

Friday, April 21, 1989, 1:30 p.m. The Technical Advisory Group of the Health and Human Services Coordinating Council will meet in emergency session in the Seventh Floor Conference Room, Sam Houston Building, Capitol Complex, Austin. According to the agenda, the group will approve minutes of the previous meeting; consider legislative update; hear consultant report; and consider new and old business. The emergency status was necessary because of complete agenda.

Contact: Patricia O. Thomas, 311-A East 14th Street, Austin, Texas (512) 463-2195.

Filed: April 14, 1989, 4:42 p.m.

TRD-8903413

Texas Historical Commission

Wednesday, April 26, 1989, 4 p.m. The Executive Committee of the Texas Historical Commission will meet at Sheraton Dallas Hotel and Towers, 400 North Olive Street, Dallas. According to the agenda, the committee will consider Texas Awards for Historic Preservation and memorial resolution for Pete Long and hear legislative report.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas (512) 463-6100.

Filed: April 17, 1989, 4:47 p.m.

TRD-8903523

Thursday, April 27, 1989, 8:30 a.m. The Division of Architecture of the Texas Historical Commission will meet in the Cafe Verde, Sheraton Inn, 400 North Olive Street, Dallas. According to the agenda summary, the division will consider status of state grants, status of federal legislation, status of state legislation, and update on current projects; hear quarterly report of

activities; consider endangered historic properties publication, Tax Revitalization Act resolution, and architectural awards.

Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: April 17, 1989, 9:14 a.m.

TRD-8903423

Thursday, April 27, 1989, 9:30 a.m. The Texas Historical Commission will meet in the Houston Room, Sheraton Dallas Hotel and Towers, 400 North Olive Street, Dallas. According to the agenda summary, the commission will hear chairman's report-T.R. Fehrenbach, CHC and Museum Services Committee report-Lunelle Anderson, Architecture Committee report-Suzanne Harris, National Register Committee report-Karl Komatsu, Publications Committee report-Jim Nabors, State Marker Committee report-John Bennet, Archeology Committee report-Harold Courson, Main Street Committee report-Virginia Long, Archeological Planning and Review Committee report-Carrielu Christensen, and Texas Antiquities report-Barto Arnold.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas, (512) 463-6100.

Filed: April 17, 1989, 4:47 p.m.

TRD-8903522

Texas Housing Agency

Friday, April 21, 1989, at 9 a.m. The Board of Directors for the Texas Housing Agency will meet in Suite 300, THA Conference Room, 811 Barton Springs Road, Austin. According to the agenda summary, the board will consider and possibly act on the REO contractor report and the confirmation agreement regarding administrative and legal actions resulting from actions taken by agency personnel.

Contact: T.R. Kenny, P.O. Box 13941, Austin, Texas 78704, (512) 474-2974.

Filed: April 13, 1989, 4:32 p.m.

TRD-8903362

Texas Department of Human Services

Tuesday, April 25, 1989, 9:30 a.m. The Church Relations Advisory Group of the Texas Department of Human Services will meet in Conference Room 6W, Sixth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the group will consider committee business, Nominating Committee, income assistance, proposed short form, concerns of CRAG members, family violence, clergy brochure distribution, legislative update, and teen parent initiatives.

Contact: Lucy Todd, P.O. Box 149030,

Austin, Texas 78714-9030, (512) 450-3129.

Filed: April 17, 1989, 12:16 p.m.

TRD-8903432

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Boulevard, Austin. Dates, times, rooms, and agendas follow.

Tuesday, April 25, 1989, 10 a.m. The board will meet in Room 414, to consider final action on new 28 TAC §15.25, amendments to 28 TAC §3.3306 and §3.3308 and new 28 TAC §3.3313. Consideration of exemptions from membership in the Texas Workers' Compensation Assigned Risk Pool for Secured Insurance Corporation, American Petroleum Assurance Company, British American Insurance Company, Employees Insurance Company, Petroleum Casualty Company, EMC Reinsurance Company, and Highlands Casualty Company. Board orders on several different matters. Personnel matters. Pending and contemplated litigation. Solvency matters. Appointment of advisory committee on discrimination issues and rating methodology used for group accident and health contracts. Emergency and proposed action on 28 TAC §27.413. Amendment of contract with Attorney General's office.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 17, 1989, 4:04 p.m.

TRD-8903512

Tuesday, April 25, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10100-Proposed reinsurance agreement whereby Hopkins County Mutual Association, Sulphur Springs, will be reinsured by Hopkins County Life Insurance Company, Austin.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:54 p.m.

TRD-8903503

Tuesday, April 25, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10101-Proposed reinsurance agreement whereby Hopkins County Burial Association, Sulphur Springs, will be reinsured by Hopkins County Life Insurance Company, Austin.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:54 p.m.

TRD-8903502

Tuesday, April 25, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 442, to consider Docket 10313-

Whether disciplinary action should be taken against Barbara George Dilley, Round Rock, who holds a group I, legal reserve life insurance agent's license and a group II, life, health, and accident insurance agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:54 p.m.

TRD-8903501

Wednesday, April 26, 1989, 9 a.m. The board will meet in Room 414, to consider appeal of commissioner's order of supervision and request to close hearing from public under Docket 1650.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 17, 1989, 4:05 p.m.

TRD-8903511

Wednesday, April 26, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10324-Whether disciplinary action should be taken against Marshall Podell, Camarillo, California, who holds a non-resident Group I, legal reserve life insurance agent's license issued by the board.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:54 p.m.

TRD-8903500

Thursday, April 27, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10333-Application of Texas Savings Life Insurance Company, Austin, to acquire control of Texas South Life Insurance Company, LaGrange, pursuant to Texas Insurance Code, Article 21.49-1, §5 and §6.

Contact: O.A. Cassidy, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:54 p.m.

TRD-8903499

Friday, April 28, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10310-Approval of Policy Contract Form 4060 11-88 of Mission Life Insurance Company, Houston.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:54 p.m.

TRD-8903498

Friday, April 28, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10322-Whether disciplinary action should be taken

against James David Singleton, Fort Worth, who holds a group II, life, health, and accident insurance agent's license issued by the board.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:53 p.m.

TRD-8903507

Friday, April 28, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10327-Whether disciplinary action should be taken against Eugene Woodrow Hall, Jr., Hurst/Fort Worth, who holds a group I, legal reserve life insurance agent's license and a variable contract agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:53 p.m.

TRD-8903504

Monday, May 1, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10295-Whether disciplinary action should be taken against W. Robert Boon who holds a group I, legal reserve life insurance agent's license and a local recording agent's license, Jerry A. Cunningham who holds a group I, legal reserve life insurance agent's license and a local recording agent's license, Henry Allen Labaj who holds a group I, legal reserve life insurance agent's license and a solicitor's license, Corporate Risk Counselor's Inc. who holds a group I, legal reserve life insurance agent's license, and Corporate Risk Counselors Agency, Inc., who holds a local recording agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:53 p.m.

TRD-8903506

Monday, May 1, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10319-Whether disciplinary action should be taken against Charles Paul McCann, Corpus Christi, who holds a group I, legal reserve life insurance agent's license and a local recording insurance agent's license issued by the board.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1989, 3:53 p.m.

TRD-8903505

Texas Department of Labor and Standards

Tuesday, April 25, 1989, 10 a.m. The Board of Boiler Rules Task Force on Steam Traction Engines of the Boiler Section will meet at the Texas State Railroad, three miles west of the Rusk Courthouse, on U.S. 84. According to the agenda, the board will approve minutes of the February 17, 1989, meeting; review assignments, and consider new assignments.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: April 17, 1989, 1:33 p.m.

TRD-8903434

Wednesday, April 26, 1989, 9:30 a.m. The Air Conditioning and Refrigeration Section Air Conditioning and Refrigeration Contractors Advisory Board of the Texas Department of Labor and Standards will meet in Room LL02, 320 East Jefferson, Dallas. According to the agenda summary, the board will approve minutes of the October 20, 1988, meeting; hear staff reports and task group reports; and consider old and new business and next meeting.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: April 17, 1989, 1:33 p.m.

TRD-8903433

Thursday, April 27, 1989, 9 a.m. The Board of Boiler Rules Task Force on Boiler Repairs and Alterations of the Boiler Section will meet in the Mockingbird West Room, Hilton Hotel, Central and Mockingbird Lane, Dallas. According to the agenda, the task force will approve minutes of the January 27, 1989, meeting; discuss the comparative matrix for repair rules; review assignments; and consider next meeting.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: April 17, 1989, 1:33 p.m.

TRD-8903435

Texas State Library and Archives Commission

Thursday, April 27, 1989, 2 p.m. The Records Management and Preservation Advisory Committee will meet at the Training Room, State Records Center, Texas State Library, 4400 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will discuss responses to the micrographics questionnaire; review bills filed for the legislative session; prepare responses to legislators regarding Bills; and discuss other business brought before the board.

Contact: Susan Tennison, P.O. Box 2960, Austin, Texas, (512) 450-4557.

Filed: April 14, 1989, 10:33 a.m.

TRD-8903389

Texas State Board of Medical Examiners

Friday-Saturday, April 14-15, 1989, 2:30 p.m. and 8 a.m. The Texas State Board of Medical Examiners met for an emergency agenda revision at 1101 Camino LaCosta, Austin. According to the agenda summary, the board will delete appearance; hear budget reports; and rearrangement of board order considerations. The emergency status was necessary as changes came to the board's attention and merited attention at the meeting.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 13, 1989, 10:22 a.m.

TRD-8903327

Friday, April 14, 1989, 4:30 p.m. The Disciplinary Process Review Committee for the Texas State Board of Medical Examiners met for an emergency agenda revision at 1101 Camino LaCosta, Austin. According to the agenda summary, the committee discussed memo regarding meeting about corporate practice of medicine. The emergency status was necessary as the matter had just come to the attention of the board and merited consideration at the meeting.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 13, 1989, 10:22 a.m.

TRD-8903326

Midwestern State University

Wednesday, April 19, 1989, 2 p.m. The Board of Regents of Midwestern State University met in emergency session in the Hardin Boardroom via conference call, Midwestern State University, Wichita Falls. According to the agenda, the board considered room and board rates for 1989-1990, off-campus housing rates and leases for 1989-1990 was recommended; a recommendation was made concerning renewal of food service contract and contract with an audit firm to audit MSU records; recommendation to provide \$30,000 in scholarship funds for 1989-1990; and recommendation concerning acceptance of stock by university. The emergency status was necessary due to the timing of early registration, these items must be addressed prior to the next regular meeting of the board.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: April 17, 1989, 3:30 p.m.

TRD-8903478

Texas National Research Laboratory Commission

Thursday, April 27, 1989, 9 a.m. The Texas National Research Laboratory Commission will meet at 2800 Momentum Place, 1717 Main Street, Dallas. According to the agenda, the commission will approve minutes of March 27, 1989, meeting; approve corrections/additions; hear chairman's comments, executive director's report, and committee reports; and consider old and new business.

Contact: Karen L. Chrestay, 7320 North MoPac, Suite 302, Austin, Texas (512) 343-7891.

Filed: April 17, 1989, 1:50 p.m.

TRD-8903437

Board of Pardons and Paroles

Monday-Friday, April 24-28, 1989, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: April 14, 1989, 10:36 a.m.

TRD-8903371

Tuesday, April 25, 1989, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: April 14, 1989, 10:37 a.m.

TRD-8903372

Texas Parks and Wildlife Department

Monday, April 17, 1989, 10 a.m. The Texas Parks and Wildlife Commission for the Texas Parks and Wildlife Department met in emergency session in the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission considered fish and wildlife stock-

ing programs; and alligator program. The emergency status was necessary as the commission needed to review the agency's stocking policy and alligator program, and immediate action was necessary in order to continue these programs for the public welfare.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: April 14, 1989, 9:58 a.m.

TRD-8903370

State Pension Review Board

Tuesday, April 18, 1989, 8:30 a.m. The Legislative Advisory Committee for the State Pension Review Board met in emergency session in Room 205, Upstairs, Capitol Building, Austin. According to the agenda summary, the committee prepared impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees. The emergency status was necessary as the committee did not have a meeting place until yesterday.

Contact: Betty Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: April 13, 1989, 10:25 a.m.

TRD-8903331

Tuesday, April 25, 1989, 8:30 a.m. The Legislative Advisory Committee for the State Pension Review Board will meet in Room 205, Upstairs, Capitol Building, Austin. According to the agenda summary, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Betty Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: April 13, 1989, 10:25 a.m.

TRD-8903329

State Preservation Board

April 18, 1989, 9:30 a.m. The State Preservation Board submitted an emergency revised agenda for a meeting held in Room 314, Library and Archives Building, Austin. According to the agenda, the board approved minutes of the previous meeting; considered old or unfinished business concerning General Land Office building master plan, capitol master plan, SPB statute revision, asbestos contract approval, and A/E fee discussion; and considered new business. The emergency status was necessary because if suspected asbestos containing materials test positive, immediate action may be required.

Contact: Michael Schneider, P.O. Box 13286, Austin, Texas 78711, (512) 463-5495.

Filed: April 17, 1989, 4:48 p.m.

TRD-8903521

Texas State of Examiners of Professional Counselors

Friday, April 21, 1989, 9 a.m. The Texas State Board of Examiners of Professional Counselors will meet at the Ramada Inn, Airport, 5660 North IH 35, Austin. Committees and agendas follow.

The Texas State Board of Examiners of Professional Counselors will approve minutes of prior meeting and discuss take possible action on licensure applications and renewals; appeals on continuing education; administrative report; expenditure; rules amendment on fee increase; brochure for application packets; renewals; applications, appeals; complaints' statistical summary; pending hearing(s); newsletter; news columns or additional public relations projects; art therapy specialty; request for attorney general opinion on licensees in exempt work settings; legislation on licensed professional counselors in exempt work settings; legislation on board and professional counselors; amendments to board rules in 22 TAC §§681.1-681.260; discuss other matters not requiring board action; and other persons who want to appear before the board.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903347

The Applications, Ethics, Suspensions, and Revocation Committee will consider action regarding applications; appeals; and rule changes relating to the code of ethics.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903344

The Complaint Committee will hear reports on complaints' statistical summary and pending investigations and hearing(s).

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903343

The Fees and Budget Committee will consider action regarding expenditures and final approval of rule changes concerning fee increases.

Contact: Don F. Rettberg, 1100 West 49th

Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903345

The Professional-Relations Committee will hear report on newsletter.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903340

The Public Relations Committee will hear report on news columns or additional public relations projects.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903341

The Rules, Supervisors, Specialties, and Reciprocity Committee will consider action regarding the complaints process, investigations, hearings, suspension of licenses and surrender of licenses; acceptable criteria for experience of supervisors for applicants; rule changes for inactive status of licensees; art therapy specialty; and other rule changes relating to the licensure and regulation of professional counselors.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903342

The Testing, Licensing, Continuing Education and Renewals Committee will consider action regarding rule change concerning continuing education and license renewals; report on brochure for application packets; and report on status of renewals.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: April 13, 1989, 11:46 a.m.

TRD-8903347

Texas Public Finance Authority

Thursday, April 20, 1989, 9 a.m. The Texas Public Finance Authority met in emergency session at 402 Central Services Building, 1711 San Jacinto Boulevard, Austin. According to the agenda summary, the authority called order; approved minutes; considered status of legislation; considered selection of bond counsel; considered selection of financial advisor and printer; and utilization of professional services. The emergency status was necessary due to TDC and TYC requirement to have

bond proceeds by late May, 1989.

Contact: Catherine Nall, 201 East 14th Street, Suite 907, Sam Houston Building, Austin, Texas 78701, (512) 463-5544.

Filed: April 14, 1989, 1:51 p.m.

TRD-8903393

Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, unless otherwise noted. Dates, times, and agendas follow.

Monday, April 17, 1989, 11 a.m. The commissioner's met for an emergency session in Hearing Room "A", in executive session to consider pending litigation in Cause 460,472 of Houston Lighting and Power Company vs. Public Utility Commission of Texas, and its members, Jo Campbell, Marta Greytok, and Bill Cassin and Cause 430,341 of Texas Industrial Energy Consumers et al vs. Public Utility of Texas et al. The emergency status was necessary as Cause 460, 472 of the district court's ruling affects the scope of discovery in a pending rate case with a statutory deadline; and in Cause 430,341, commission consideration of settlement approaches prior to issuance of final judgment by district court.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903396

Wednesday, April 19, 1989, 9 a.m. The commission met for an emergency agenda revision to consider Project 8703-Application of Texas Utilities Electric Company for authority to refund an overrecovery of fuel cost revenues. Prompt commission action was necessary for expeditious return of fuel overcollections to customers.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903395

Monday, April 24, 1989, 10 a.m. The Hearings Division will consider Docket 8716-Application of Southwest Texas Electric Cooperative, Inc. for tariff change to reduce line extension charges.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903397

Monday, April 24, 1989, 10 a.m. The Hearings Division will consider Docket

7736-Application of Southwestern Bell Telephone Company for blocking of intrastate interlata calls to dial 976 numbers.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903353

Thursday, April 27, 1989, 10 a.m. The Hearings Division will consider Docket 8046-Complaint of Exxon Company, U.S.A. against Houston Lighting and Power Company requesting a commission determination as to the justness and reasonableness of certain tariff provisions.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:42 p.m.

TRD-8903486

Monday, May 8, 1989, 10 a.m. The Hearings Division will consider the following dockets.

Docket 8672-Application of Southwestern Bell Telephone Company to revise 3M plexar tariff.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903487

Docket 8592-Application of Southwestern Bell Telephone Company to revise Tenneco plexar tariff.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903488

Docket 8523-Application of Southwestern Bell Telephone Company for extension of plexar custom analog service to the City of Dallas.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903489

Docket 8517-Application of Southwestern Bell Telephone Company for approval of feature additions to plexar custom service for Herrmann Hospital.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903490

Docket 8382-Application of Southwestern Bell Telephone Company for approval of

plexar customer specific contract for national oil well.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903491

Docket 8381-Application of Southwestern Bell Telephone Company for approval of plexar customer specific contract for Structural Metals, Inc.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903492

Docket 8301-Application of Southwestern Bell Telephone Company for expansion of plexar-custom service for Shell Oil.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903493

Docket 7676-Application of Southwestern Bell Telephone Company for ESSX custom digital tariff for American Airlines-Dallas.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903494

Docket 8314-Application of Southwestern Bell Telephone Company for plexar-custom tariff for Methodist Hospital.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903495

Docket 8330-Application of Southwestern Bell Telephone Company for approval of plexar-custom service for Rockwell International.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903496

Docket 8302-Application of Southwestern Bell Telephone Company for expansion of plexar-custom service for M.D. Anderson Hospital.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1989, 3:41 p.m.

TRD-8903497

Friday, May 19, 1989, 10 a.m. The Hearings Division will consider Dockets 7489 and 8221-Applications of GTE Southwest, Inc. for amendment of its 976 service tariff, and for authority to implement special prefix dial it service.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903399

Thursday, June 29, 1989, 10 a.m. The Hearings Division will meet in Docket 8702-Application of Gulf States Utilities Company for authority to change rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903354

Monday, September 11, 1989, 10 a.m. The Hearings Division will consider Docket 8395-Petition for declaratory judgment and relief of AT&T Communications of the Southwest, Inc. against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 14, 1989, 2:20 p.m.

TRD-8903398

State Purchasing and General Services Commission

Tuesday, April 25, 1989, 9 a.m. The Commission for the State Purchasing and General Services Commission will meet in Conference Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the agenda summary, the commission will consider the repeal of §115.62 and final adoption of new §115.62 relating to the elimination of architectural barriers; consider approval of the purchase of additional computer capacity; long-range planning committee report; monthly operating budget report; monthly 3.09 report; monthly TEXAN report; monthly operating budget report; monthly construction project report; discuss SPGSC facilities needs and plans; monthly division activity report; executive session to consider the status of the potential purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b; executive session to receive a report from counsel concerning the status of all pending litigation; and executive session to receive information from, and ask questions of, staff concerning potential legislation for the 71st legislature.

Contact: John R. Neel, 1711 San Jacinto, Austin, Texas, (512) 463-3446.

Filed: April 17, 1989, 9:57 a.m.

TRD-8903425

Railroad Commission of Texas

Monday, April 24, 1989, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7257.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903383

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7251.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903379

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: April 21, 1989, 10:19 a.m.

TRD-08903377

The commission will consider and act on the Flight Division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6787.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903387

The commission will consider and act on the Office of Information Services/Office of Research and Statistical Analysis Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12970, Austin, Texas 78753, (512) 463-6710.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903384

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903382

The commission will consider and act on the Legal Division report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue Boykin, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903385

The commission will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903381

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Andy Taylor, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6924.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903376

The commission will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6755.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903378

The commission will consider possible revisions to the oil and gas statewide rule 42 (16 TAC §3.42), "Oil Discovery Allowable".

Contact: Andy Taylor, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6924.

Filed: April 14, 1989, 10:17 a.m.

TRD-8903388

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline, and/or dismissal of personnel. The commission will consider guidelines for registered professional engineers.

Contact: Mark Bogan, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6981.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903386

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903380

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Raymond Bennett, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7122.

Filed: April 14, 1989, 10:19 a.m.

TRD-08903375

Texas Rehabilitation Commission

Thursday, April 27, 1989, 9:30 a.m. The Advocacy and Public Information Committee, Texas Planning Council for Developmental Disabilities for the Texas Rehabilitation Commission will meet in Room 123, 118 East Riverside Drive, Austin. According to the agenda, the committee will call order, approve summary report; state legislation/policy; and federal legislation/policy.

Contact: Roger A. Webb, 118 East Riverside Drive, Austin, Texas, (512) 445-8867.

Filed: April 13, 1989, 4:11 p.m.

TRD-8903361

Monday, May 1, 1989, 4 p.m. The Public Information Office of the Texas Rehabilitation Commission will meet in the Quality Inn, Dallas Northeast, 13700 LBJ Freeway, Garland. According to the agenda, the office will consider rehabilitation engineering, statewide assessment of rehabilitation needs, transition from education to employment, order of selection, expanding services to individuals with severe handicaps, supported employment under Title VI Part C of the Rehabilitation Act, summary of comments, and concluding remarks. Written comments need to be received by May 5.

Contact: Randy Jennings, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8788.

Filed: April 17, 1989, 4:38 p.m.

TRD-8903519

Wednesday, May 3, 1989, 3 p.m. The Public Information Office of the Texas Rehabilitation Commission will meet in the City of Houston Multi-Service Center, 1475 West Gray, Houston. According to the agenda, the office will consider rehabilitation engineering, statewide assessment of rehabilitation needs, transition from education to employment, order of selection, expanding services to individuals with severe handicaps, supported employment under Title VI Part C of the Rehabilitation Act, summary of comments, and concluding remarks. Written comments need to be received by May 5.

Contact: Randy Jennings, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8788.

Filed: April 17, 1989, 4:38 p.m.

TRD-8903520

Friday, May 5, 1989, 4 p.m. The Public Information Office of the Texas Rehabilitation Commission will meet at Easter Seal, 2203 Babcock, San Antonio. According to the agenda, the office will consider rehabilitation engineering, statewide assessment of rehabilitation needs, transition from education to employment, order of selection, expanding services to individuals with severe handicaps, supported employment under Title VI Part C of the Rehabilitation Act, summary of comments, and concluding remarks. Written comments need to be received by May 5.

Contact: Randy Jennings, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8788.

Filed: April 17, 1989, 4:38 p.m.

TRD-8903518

Stephen F. Austin State University

The Board of Regents of Stephen F. Austin State University will meet in Room 307, Austin Building, Stephen F. Austin State

University, Nacogdoches. Dates, times, and agendas follow.

Tuesday, April 25, 1989, 1:30 p.m. The board committees will consider election of board officers; approval of minutes; policy and procedure manual; authorization for litigation; faculty/staff appointments for fiscal year 1988-1989; faculty/staff appointments for fiscal year 1989-1990; change of status 1988-1989; leaves of absence; tenure; general bulletin; approval of summer budget; financial certification; replacement of computer/software for energy management system; purchase of 1520 Baker Street property; re-roofing Steen Library; repair of coliseum parking lot; chiller replacement, hall 17; budget for hall 17 chiller replacement; Wisely Hall renovation; budget for Wisely Hall project; replacement of boilers in university center; installation of equipment for university center for heating/cooling project; asbestos removal for university center; contract for engineering services; agreement with City of Nacogdoches; east college storm sewer project; and agreement establishing temple chair in forestry. The committees will also meet in executive session.

Contact: William R. Johnson, P.O. Box 6078, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: April 14, 1989, 3:30 p.m.

TRD-8963406

Wednesday, April 26, 1989, 9 a.m. The board will consider election of board officers; approval of minutes; policy and procedure manual; authorization for litigation; faculty/staff appointments for fiscal year 1988-1989; faculty/staff appointments for fiscal year 1989-1990; change of status 1988-1989; leaves of absence; tenure; general bulletin; approval of summer budget; financial certification; replacement of computer/software for energy management system; purchase of 1520 Baker Street property; re-roofing Steen Library; repair of coliseum parking lot; chiller replacement, hall 17; budget for hall 17 chiller replacement; Wisely Hall renovation; budget for Wisely Hall project; replacement of boilers in university center; installation of equipment for university center for heating/cooling project; asbestos removal for university center; contract for engineering services; agreement with City of Nacogdoches; east college storm sewer project; and agreement establishing temple chair in forestry. The board will also meet in executive session.

Contact: William R. Johnson, P.O. Box 6078, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: April 14, 1989, 3:30 p.m.

TRD-8903408

Texas Southern University

Friday, May 5, 1989, 10 a.m. The Board of Regents of Texas Southern University, will meet on the Fifth Floor, University Library, Texas Southern University, Houston. According to the agenda, the board will consider: minutes; budget changes; investments; budgets for restricted and/or grants and projected funds. Construction change orders; payment to architects contractors and engineers; authorization and ratification of contracts and awards; review of on going construction and current contractual relations; personnel actions, report on progress of academic activities and programs; and report of the president. The board will also meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: April 17, 1989, 8:44 a.m.

TRD-8903424

University Interscholastic League

Wednesday, April 19, 1989, 9 a.m. The Awards and Athletic Rule Committee of the University Interscholastic League will meet in the Bonnell Room, Marriott at the Capitol, 701 East 11th Street, Austin. According to the agenda summary, the committee will hear proposals for amendments to the league constitution and contest rules.

Contact: Bill Farney, (512) 471-5883.

Filed: April 14, 1989, 4:35 p.m.

TRD-8903412

University System of South Texas

Friday, April 21, 1989, 10:30 a.m. The Board of Directors of the University System of South Texas will meet in the Founders' Room, Lewis Hall, Texas A&I University, Kingsville. According to the agenda summary, the board will consider minutes of February 2, 1989, meeting; consider resignation of president Steven Altman; appointment of Selection Committee for new president at Texas A&I University; and time and place of next meeting. The board will also meet in executive session to discuss personnel changes and legal matters within the system; consider resignation of president of Texas A&I University; and selection process for new president of Texas A&I University.

Contact: Frederick Bigelow, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2208.

Filed: April 18, 1989, 8:35 a.m.

TRD-8903526

Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, rooms, and agendas follow.

Monday, April 24, 1989, 10 a.m. The commission will meet in Room 118, to consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: April 14, 1989, 4:03 p.m.

TRD-8903407

Thursday, May 4, 1989, 10 a.m. The commission will meet in Room 118, to determine whether a temporary order should be issued to the City of Emory, P.O. Box 272, Emory. The temporary order, if issued, would authorize the City of Emory to discharge municipal wastewater effluent at a volume not to exceed 112,000 gallon per day from its aerated lagoon-system wastewater treatment plant located on the west side of Willow Springs Road, approximately 1/2 mile south of the intersection of U.S. Highway 69 and State Highway 19 in Rains County. The wastewater effluent would be discharged to Sandy Creek; thence into the Sabine River in Segment 0506 of the Sabine River Basin. The temporary order would expire 60 days from the date the permit is issued.

Contact: Sharon J. Smith, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 17, 1989, 11:26 a.m.

TRD-8903470

Thursday, May 4, 1989, 10 a.m. The commission will meet in Room 118, to consider various matters within the regulatory jurisdiction of the commission. In addition the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: April 17, 1989, 11:27 a.m.

TRD-8903469

Thursday, May 4, 1989, 2 p.m. The com-

mission will meet in Room 118, to consider various matters within the regulatory jurisdiction of the commission. In addition the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: April 17, 1989, 11:27 a.m.

TRD-8903468

Monday, May 22, 1989, 10:30 a.m. The Office of Hearings Examiner will meet in Room 119, to consider application by Texas Parks and Wildlife Department, Design and Construction Division for an amendment to certificate of adjudication 18-1975.

Contact: Jim Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 13, 1989, 2:01 p.m.

TRD-8903352

Tuesday, May 30, 1989, 10 a.m. The Hearings Examiner will meet in Room 1149A, to consider application by Ross Owen Scull, application 19-1171A, to combine the water rights authorized under certificate of adjudication 19-1171 with the water rights authorized under Permit 3619 (A-3911) under certificate of adjudication 19-1171 and to amend the certificate, as combined.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 13, 1989, 2:01 p.m.

TRD-8903355

Thursday, June 1, 1989, 10 a.m. The commission will meet in Room 118, to determine whether to affirm, modify, or set aside an emergency order issued April 3, 1989, to Monsanto Company, P.O. Box 711, Alvin, Texas 77512-9888. The emergency order permits Monsanto to store specialty chemical process wastewaters in injection well pretreatment system surface impoundments and to inject the process wastewaters into waste disposal wells WDW-2 and WDW-13. The Monsanto plant is located adjacent to FM Road 2917 approximately 1.25 miles northwest of the intersection of FM Road 2917 and FM Road 2004 and approximately 14 miles south-southeast of Alvin, Brazoria County. The site is adjacent to Chocolate Bayou and in the drainage area of Segment 1107 of the San Jacinto-Brazos Coastal Basin.

Contact: Debra Eccles, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 14, 1989, 1:44 p.m.

TRD-8903392

Tuesday, June 6, 1989, 10 a.m. The Office of Hearings Examiner will meet at St. John's Parish Hall, corner of Pecan and Travis Streets, Luling. According to the agenda summary, the examiner will consider application by Refined Solvent, Inc. for a permit (Proposed Permit HW-50240-001) to authorize the operation of a Class I hazardous/industrial solid waste storage and processing facility for wastes received from offsite sources for reclamation. The facility is to be on an 18-acre tract of land at the corner of Davis Street and Mimosa Street in Luling, Caldwell County, in the drainage area of Segment 1808 of the Guadalupe River Basin.

Contact: Alex Schmandt, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 13, 1989, 2:02 p.m.

TRD-8903351

Regional Meetings

Meetings Filed April 13, 1989

The Alamo Area Council of Governments, Budget and Workplan Committee, will meet in Suite 400, 118 Broadway, San Antonio, on April 25, 1989, at 2:30 p.m. The Area Judges of the Alamo Service Delivery Area and the Executive Committee will meet at the same location on April 26, 1989, at 12:15 p.m. and 1 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Brazos River Authority, Board of Directors, met at 4400 Cobbs Drive, Waco, on April 17, 1989, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Comal Appraisal District, Board of Directors, will meet at 430 West Mill Street, New Braunfels, on April 24, 1989, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597.

The Hays County Appraisal District, Appraisal Review Board, met at the Municipal Building, 632 "A" East Hopkins, San Marcos, on April 19, 1989, at 9:30 a.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, Municipal Building, San Marcos, Texas 78666, (512) 754-7400.

The Swisher County Appraisal District, Board of Directors, met at El Matador Cafe, Highway 87, Tulia, on April 20, 1989, at 7:30 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118.

TRD-8903328

Meetings Filed April 14, 1989

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson Avenue, Jourdanton, on April 20, 1989, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson Avenue, Jourdanton, Texas 78026, (512) 769-2730.

The Austin-Travis County MHMR Center, Evaluation Committee, met in Suite 500, 611 South Congress Avenue, Austin, on April 19, 1989, at 8:30 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 440-4031.

The Burnet County Appraisal District, Board of Directors, met at 215 South Pierce, Burnet, on April 20, 1989, at 6:30 p.m. Information may be obtained from Amy Shrader, 215 South Pierce, Burnet, Texas 78611, (512) 756-8291.

The Central Texas Council of Governments, Central Texas Private Industry Council, will meet at the Killeen Hilton, 803 East Central Texas Expressway, Killeen, on April 27, 1989, at 10 a.m. Information may be obtained from A.C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-3771.

The Dallas Area Rapid Transit, Planning and Development Committee, met in the Boardroom, 601 Pacific Avenue, Dallas, on April 18, 1989, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Administrative Facility, 4101 South Medford Drive, Lufkin, on April 25, 1989, at 4 p.m. Information may be obtained from Jim McDermott, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901.

The East Texas Council of Governments, Private Industry Council, met at the ETCOG offices, Kilgore, on April 20, 1989, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, (214) 984-8641.

The Education Service Center, Region IV, Board of Directors, met in the Boardroom, 7145 West Tidwell, Houston, on April 20, 1989, at noon. Information may be obtained from William L. McKinney, 7145 West Tidwell, Houston, Texas 77001, (713) 462-7708.

The Edwards Underground Water District, Water Conservation Committee, met at 1615 North St. Mary's Street, San Antonio, on April 18, 1989, at 4 p.m. Information may be obtained from Gordon M. Clarke, 1615 North St. Mary's Street, San Antonio, Texas 78215, (512) 222-2204.

The Jack County Appraisal District,

Board of Directors, met in the Los Creek Office Building, 216-D South Main, Jacksboro, on April 18, 1989, at 7 p.m. Information may be obtained from Treva Epperson or Donna Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lamb County Appraisal District, Board of Directors, will meet in the Board Meeting Room, 330 Phelps Avenue, Littlefield, on April 30, 1989, at 8 p.m. Information may be obtained from Murlene J. Godfrey, P.O. Box 552, Littlefield, Texas 79339-0552, (806) 385-6474.

The Limestone County Appraisal District, Board of Directors, met in the Meeting Room, Limestone County Courthouse, Groesbeck, on April 19, 1989, at 5 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

The Lower Colorado River Authority, Planning and Public Policy Committee, met at 3700 Lake Austin Boulevard, Austin, on April 18, 1989, at 2 p.m. The Energy Operations Committee, Planning and Public Policy Committee, Audit and Budget Committee, Finance and Administration Committee, and Natural Resources Committee met at the same location on April 19, 1989, at 9 a.m. The Board of Directors met at the same location and date at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Martin County Appraisal District, Board of Directors, will meet at Guy's Restaurant, Stanton, on April 25, 1989, at 7 a.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The North Texas Private Industry Council, will meet in Room 215, Wichita Falls Activities Center, 10th and Indiana Streets, Wichita Falls, on April 26, 1989, at 12:15 p.m. Information may be obtained from Art Frerich, 4515 Allendale, Road, Wichita Falls, Texas 76310, (817) 691-0020.

The Rio Grande Council of Governments, Board of Directors, will meet on the Second Floor Conference Room, The Centre, 123 Pioneer Plaza, El Paso, on April 21, 1989, at 9:30 a.m. Information may be obtained from Cecile C. Gamez, 123 Pioneer Plaza, Suite 210, El Paso, Texas 79901, (915) 535-0998.

The San Antonio-Bexar County Metropolitan Planning Organization, Steering Committee, will meet in the Basement Conference Room, Main Plaza, San Antonio City Hall, San Antonio, on April 24, 1989, at 1:30 p.m. Information may be obtained from David F. Pearson, Bexar County Courthouse, Room 101, San Antonio, Texas 78205-3002, (512) 227-8651.

The Trinity River Authority of Texas, Utility Services Committee, met at 6500 West Singleton Boulevard, Grand Prairie,

Dallas, on April 17, 1989, at 10 a.m. The Legal Committee met at 5300 South Collins, Arlington, on April 19, 1989, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

The Wood County Appraisal District, Board of Directors, met in the Conference Room, Appraisal District, 217 North Main, Quitman, on April 20, 1989, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4891.

TRD-8903364

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Meetings Filed April 17, 1989

The Austin-Travis County MHMR Center, Operations and Planning Committee, will meet in Suite 500, 611 South Congress Avenue, Austin. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

The Deep East Texas Council of Governments, 9-1-1 Emergency Number System Planning Meeting, met in the Commissioner's Courtroom, Nacogdoches, on April 20, 1989, at 9:30 a.m. Information may be obtained from Joan Draper, 274 East Lemar Street, Jasper, Texas 75951, (409) 384-5704.

The Education Service Center, Region XVI, Board of Directors, will meet in the Texas Empire Room North, Amarillo Club,

Seventh and Tyler, Amarillo, on May 5, 1989, at 1 p.m. Information may be obtained from Kenneth M. Laycock, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521.

The Golden Crescent Service Delivery Area, Private Industry Council, Inc., met on Wednesday, April 19, 1989, at 6:30 p.m. Information may be obtained from Jane A. Abell, P.O. Box 2149, Victoria, Texas 77902.

The Henderson County Appraisal District, Appraisal Review Board, met at 1751 Enterprise, Athens, on April 20, 1989, at 9 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas (214) 675-9296.

The Lavaca County Central Appraisal District, Appraisal Review Board, will meet at 113 North Main, Hallettsville, on April 21, 1989, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Lower Colorado River Authority, Board of Directors, met at 3700 Lake Austin Boulevard, Austin, on April 20, 1989, at 10 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The MHMR Authority of Brazos Valley, Board of Trustees, will meet at 623 Mary Lake Drive, Bryan, on April 21, 1989, at 8 a.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77802, (409) 822-6467.

The Northeast Texas Municipal Water District, Board of Directors, will meet at Highway 250 South, Hughes Springs, on April 24, 1989, at 10 a.m. Information may be obtained from J.W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (214) 639-7538.

The Red River Authority of Texas, Board of Directors, will meet in the Burk Room, Hilton Hotel, 401 Broad, Wichita Falls, on April 21, 1989, at 9 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.

The Upper Leon River Municipal Water District, Board of Directors, will meet in the General Officer of the Filter Plant, Proctor Lake, Comanche County, on April 27, 1989, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258.

TRD-8903422

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Meetings Filed April 18, 1989

The Austin-Travis County MHMR Center, Board of Trustees, will meet in Suite 104, 611 South Congress Avenue, Austin, on April 21, 1989, at 9 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 440-4031.

TRD-8903525



Name: Debbie Bass

Grade: 11

School: Sweeny High, Sweeny

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On March 22, 1989, the banking commissioner received an application to acquire control of the Bank of the West, Austin, by Richard D. Segal, Rye, New York.

On April 12, 1989, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on April 12, 1989.

TRD-8903363 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 13, 1989

For further information, please call (512) 479-1200

Notice of Postponement of Hearing

The April 14, 1989, hearing on violations of the Texas Sale of Checks Act by Texas Checkashers, Inc./Navigation Checkashers, Inc., Houston has been postponed and will be rescheduled at a later date.

Additional information may be obtained from Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on April 13, 1989.

TRD-8903349 Ann Graham
General Counsel
Texas Department of Banking

Filed: April 13, 1989

For further information, please call (512) 479-1200

Texas Department of Commerce Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1989 is \$839,250,000.

State legislation, Texas Civil Statutes, Article 5190.9(a) (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$279,750,000 with \$186,500,000 available to the local housing authorities and \$93,250,000 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$209,812,500 and the amount for all other bonds requiring an allocation is \$349,687,500.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, April 3, 1989-April 7, 1989.

Weekly report on the 1989 allocation of the state ceiling on certain private activity bonds as pursuant to Texas Civil Statutes, Article 5190.9(a).

Total amount of state ceiling remaining unreserved for the \$279,750,000 subceiling for qualified mortgage bonds under the Act as of April 7, 1989: \$93,251,166.

Total amount of state ceiling remaining unreserved for the \$209,812,500 subceiling for state-voted issues under the Act as of April 7, 1989: \$209,812,500.

Total amount of state ceiling remaining unreserved for the \$349,687,500 subceiling for all other bonds under the Act as of April 7, 1989: \$2,500.

Total amount of the \$839,250,000 state ceiling remaining unreserved as of April 7, 1989: \$303,066,166

Comprehensive listing of bonds issues which have received a reservation date pursuant to the Act from April 3, 1989-April 7, 1989: none;

Comprehensive listing of bonds issued and delivered as pursuant to the Act from April 3, 1989-April 7, 1989: City of El Paso Housing Finance Corporation, eligible borrowers, qualified mortgage bonds, \$24,590,000.

Issued in Austin, Texas on April 11, 1989.

TRD-8903311 J. William Lauderbeck
Executive Director
Texas Department of Commerce

Filed: April 12, 1989

For further information, please call (512) 472-5050

**Office of Consumer Credit
Commissioner**

Correction of Error

The Consumer Credit Commissioner submitted a document entitled "Notice of Rate Ceilings", which contained an error as submitted by the commissioner in the April 7, 1989, issue of the *Texas Register* (14 TexReg 1770).

In the notice the Indicated (Weekly) Rate showing that the ceiling was 18.00% for the Commercial over \$250,000 for

the period April 3, 1989-April 9, 1989, was in error. The correct ceiling is 18.25%.

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Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer⁽³⁾/Agricultural/Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	04/17/89-04/23/89	18.00%	18.00%
Monthly Rate Art. 1.04(c) ⁽¹⁾	04/01/89-04/30/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/89-06/30/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	04/01/89-06/30/89	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) ⁽³⁾	04/01/89-06/30/89	16.81%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	04/01/89-06/30/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	04/01/89-06/30/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	04/01/89-06/30/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	04/01/89-04/30/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on April 10, 1989.
TRD-8903404 Al Endsley
Consumer Credit Commissioner

Filed: April 14, 1989

For further information, please call: (512) 479-1280

**Texas Department of Health
Intent to Revoke a Radioactive Material
License**

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Radioactive Material License L03661, issued to Brazos Valley Hospital, 526 Ward Street, Sealy, Texas 77474, because the company has been dissolved.

All attempts by the agency to obtain a request for termination from the licensee have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the radioactive material license be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* 13.8, this notice affords the opportunity for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin Texas 78756-3189. Should no request for a hearing be timely filed, the radioactive material license will be revoked at the end of the 30-day period of notice.

Issued in Austin, Texas on April 13, 1989.

TRD-8903348 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: April 13, 1989

For further information, please call (512) 835-7000

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**Farmer's Market Coupon Demonstration
Project**

The Honorable William P. Clements, Jr., Governor of Texas, has designated the Texas Department of Health as the Texas state agency responsible for administering the federally funded Farmer's Market Coupon Demonstration Project in Texas. Within the department, the Women, Infants, and Children (WIC) Program will administer the project.

The U.S. Department of Agriculture, Food and Nutrition Service, has approved an application from the department for grant funds to operate the project. The approved grant is in the amount of \$416,800 and the State of Texas will provide matching funds in the amount of \$178,629. The grant provides funds for coupons redeemable for fresh fruits and vegetables to augment the diets of participants in the WIC Program.

The department will operate the program in geographic areas with approved farmer's markets approved by the Texas Department of Agriculture Farmer's Market Certification Program. Based upon that criteria and in coordination with the Texas Department of Agriculture, the department has selected the following counties as locations for the pilot program operations: Angelina, Bexar, Brazos, El Paso, Grayson and Jefferson.

Under the terms of the federal grant, the Department of Health will operate the project in June and July, 1989. During these two months, women and children participating in the WIC program in the above mentioned counties will be issued packets of farmer's market coupons not to exceed \$20 per participant for the two month pilot program. All redeemable coupons will be submitted by the contracted farmer's markets to the Department of Health for payment.

Issued in Austin, Texas on April 12, 1989.

TRD-8903294 Robert A. MacLean, M.D.
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: April 12, 1989.

For further information, please call: (512) 458-7444

Public Hearings

The Interagency Council on Early Childhood Intervention (ECI) announces public hearings on its plan for expenditure of the \$5.3 million allocated to the council through the U.S. Department of Education. The money is supplemental to the state dollars that are used to fund programs for developmentally delayed infants and toddlers. The council's proposal (grant application for the federal funds) will be available prior to the hearings at the local ECI programs or at the state office in Austin. Call Mary Elder, ECI Administrator, (512) 458-7673 or write the Early Childhood Intervention Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Hearings are scheduled as follows.

April 24, 1989, 10:30 a.m.-12:30 p.m., Easter Seal Rehabilitation Center, 2203 Babcock Road, San Antonio; Contact: John Delgado at (512) 532- 5158 or Linda Bishop at (512) 699-3911.

April 26, 1989, 9:30 a.m.-11:30 a.m., Region 18 Education Service Center, 2811 LaForce Blvd (Air Terminal), Midland; Contact: Chad Spears at (915) 337-5414 or Jackie Searl at (915) 563-2380.

Issued in Austin, Texas on April 12, 1989.

TRD-8903293 Robert A. MacLean, M.D.
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: April 12, 1989.

For further information, please call: (512) 458-7673

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**Railroad Commission of Texas
Notice of Permit Transfer Application**

Walnut Creek Mining Company, 410 Main Street, P.O. Box 69, Calvert, Texas 77837, has applied to the Railroad Commission of Texas for transfer of surface coal mining Permit Number 27 from Phillips Coal Company, 2929 North Central Expressway, Richardson, Texas 75080. Walnut Creek Mining Company is a joint venture company composed of Phillips Coal Company and Kiewit Texas Mining Company.

The Permit Number 27 surface coal mining operation is known as the Calvert Lignite Mine, located south of the community of Bremond, east of the community of Hammond, and north of the community of Calvert and falls entirely within the United States Geological Survey Hammond quadrangle map. The permit area encompasses approximately 2,263 acres.

The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, Texas Civil Statutes, Article 5920-11 (Vernon Supplement 1989). Please address all comments or inquiries to: Charles E. Evans, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967.

A copy of the transfer application may be inspected in the offices of the commission at 1701 North Congress Avenue, William B. Travis Building, Austin, or at the Regional Office, 2202 Old Henderson Highway, Tyler, or at the office of the County Clerk at Robertson County Courthouse in Franklin.

Issued in Austin, Texas on April 14, 1989.

TRD-8903400 J. Randel (Jerry) Hill
Director, Surface Mining and Reclamation
Division
Railroad Commission of Texas

Filed: April 14, 1989

For further information, please call (512) 463-7152

◆ ◆ ◆
Texas Water Commission
Notice of Application For Waste
Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 10-April 14, 1989.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Gold Coast Seafood, Inc.; Palacios; shrimp processing facility; on the southwest corner of the intersection of Eighth Street and Duson Street in the City of Palacios, Matagorda County; 03081; new.

Ector County Independent School District; Odessa; domestic wastewater treatment facility; 9701 West 16th Street, approximately 4,000 feet east of the intersection of West 16th Street and Moss Avenue, Ector County; 13478-01; new.

Cape Royale Utility District; Coldspring; domestic wastewater treatment facility; approximately 5-1/2 miles north of City of Coldspring, in the northwest corner of the Cape Royale Subdivision, on the shore of Lake Livingston, San Jacinto County; 10997-01; renewal.

Agnes Dairy; Springtown; dairy farm; approximately five miles west of the intersection of FM Road 51 and State Highway 199 and approximately two miles south of State Highway 199, west of the City of Springtown, Parker County; 03071; new.

City of Seymour; wastewater treatment facility; approximately 0.5 mile southwest of the intersection of FM Road 1286 and State Highway 114, Baylor County; 10281-01; amendment.

City of Laredo; North Laredo Wastewater Reclamation Plant; approximately 2.5 miles northeast of the intersection of Del Mar Boulevard and Interstate Highway 35 in the City of Laredo, Webb County; 10681-04; amendment.

Polyco, Inc.; Grand Prairie; plastic reclamation facility; 8902 Broussard Road, in the extraterritorial jurisdiction of the City of Beaumont, Jefferson County; 03079; new.

Issued in Austin, Texas, on April 14, 1989

TRD-8903394

Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: April 14, 1989

For further information, please call (512) 463-7908

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Texas Water Development Board
Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

Galveston County Drainage District #1, P.O. Box 591, Santa Fe, Texas 77517, received March 17, 1989, flood protection planning grant application in an amount not to exceed \$15,000 from the research and planning fund.

City of Lumberton, P. O. Box 8545, Lumberton, Texas 77711, received May 13, 1988, flood protection planning grant application in an amount not to exceed \$37, 500 from the research and planning fund.

Harris County Flood Control District, 9900 Northwest Freeway, Suite 220, Houston, Texas 77092, received April 7, 1989, flood protection planning grant application in an amount not to exceed \$200,000 from the research and planning fund.

Barton Springs/Edwards Aquifer Conservation District, 1124A Regal Row, Austin, Texas 78748, received March 20, 1989, water supply planning grant application in an amount not to exceed \$50,000 from the research and planning fund.

Canyon Regional Water Authority, P.O. Box 188, Marion, Texas 78124, received March 20, 1989, water supply planning grant application in an amount not to exceed \$35,000 from the research and planning fund.

City of Clifton, 403 West Third Street, Clifton, Texas 76634 and City of Meridian, 111 North Main, Meridian, Texas 76665, received March 17, 1989, water supply planning grant application in an amount not to exceed \$20,000 from the research and planning fund.

High Plains Underground Water Conservation District, 2930 Avenue Q, Lubbock, Texas 79405, received March 20, 1989, for \$1 million from the Agricultural Conservation Pilot Loan Program.

City of Harlingen, P.O. Box 150, Harlingen, Texas 78551, received April 6, 1989, for financial assistance in the amount of \$2 million from the water loan assistance fund.

City of Arcola, 13222 Highway 6, Arcola, Texas 77583, received October 25, 1988, for financial assistance in the amount of \$325,000 from the water quality enhancement account of the water development fund.

City of Prairie View, P.O. Box 2809, Prairie View, Texas 77446, received January 19, 1989, for financial assistance in the amount of \$760,000; \$390,000 from the water supply account and \$370,000 from the water quality enhancement account, both of the water development fund.

City of Caddo Mills, 2309 Main, Caddo Mills, Texas 75005, received March 15, 1989, for financial assistance in the amount of \$430,000; \$70,000 from the water supply account and \$360,000 from the water quality enhancement account, both of the water development fund.

Additional information concerning this matter may be obtained from M. Reginald Arnold II, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas on April 12, 1989.

TRD-8903307 M. Reginald Arnold II
General Counsel
Texas Water Development Board

Filed: April 12, 1989

For further information, please call (512) 463-7981



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