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Texas Register

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Pages 3029-3077

In This Issue...

Proposed Sections

Railroad Commission of Texas

3037-Transportation Division

Public Utility Commission of Texas

3037-Substantive Rules

Structural Pest Control Board

3038-Licenses

State Property Tax Board

3939-Reporting Procedures

Withdrawn Sections

Texas Community Development Program

3043-Texas Community Development Program

Adopted Sections

Railroad Commission of Texas

3045-Transportation Division

Texas Water Commission

3045-Underground Water Management Areas

3046-Consolidated Permits

3047-Underground Injection Control

Texas Department of Human Services

3056-Pharmacy Services

3060-Utilization Review

Open Meetings

3063-Texas Alcoholic Beverage Commission

3063-Texas Commission on the Arts

3063-Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

3063-Texas Commission for the Deaf

3064-Texas Education Agency

3064-Interagency Council for Genetic Services

3064-Texas Health and Human Services Coordinating Council

3064-Texas Housing Agency

3064-Board of Law Examiners

3065-Interagency Council on Mentally Retarded, Developmentally Disabled and Mentally Ill Offenders

3065-State Pension Review Board

3065-State Purchasing and General Services Commission

3065-Texas Rehabilitation Commission

3065-Texas County and District Retirement System

3065-Texas Department of Public Safety

3065-Texas State University System

3065-Teacher Retirement System of Texas

3066-Texas State Treasury Department

3066-Public Utility Commission of Texas

3066-Texas Veterans Commission

3066-Board of Vocational Nurse Examiners

3066-Texas Water Commission

3067-West Texas State University

3067-Regional Meetings

In Addition

Texas Air Control Board

3069-Request for Submission of Bids for Insurance

Texas Department of Commerce

3073-Amendment to Consultant Contract Award

Texas Education Agency

3073-Correction to Request for Applications

Governor's Office of Budget and Planning

3073-Consultant Contract Award

Texas Rehabilitation Commission-Texas Advisory Board of Occupational Therapy

3073-Contested Hearing Notice

Texas Register

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



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Public Utility Commission of Texas

3074-Commission Review of Substantive Rule 23.28

3074-Consultant Proposal Request

Texas Water Commission

3075-Notice of Application for Waste Disposal Permit

Profile

A Guide to Texas State Agencies

3077-Texas Animal Health Commission



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TAC Titles Affected

TAC Titles Affected—June

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

TITLE 1. ADMINISTRATION

Part V. State Purchasing and General Services Commission

1 TAC §§113.1, 113.2, 113.5, 113.6—2739

1 TAC §115.62—2797

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §11.2—2651

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Community Development Program

10 TAC §9.41—3043

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §3.57—2647

16 TAC §5.294—3037

16 TAC §5.535—3045

16 TAC §5.587—3037

Part II. Public Utility Commission of Texas

16 TAC §21.22—2740

16 TAC §23.3—3037

16 TAC §23.21—2951

16 TAC §23.23—2740

16 TAC §23.27—2989

16 TAC §23.45—2939

16 TAC §23.46—2939

16 TAC §23.54—2898

Part IV. Texas Department of Labor and Standards

16 TAC §§65.1, 65.10, 65.20, 65.30, 65.50, 65.60, 65.70, 65.80, 65.90, 65.100—2721, 2746

16 TAC §§65.12-65.18, 65.20-65.34—2736, 2747

16 TAC §§65.41-65.52—2747

16 TAC §§65.61-65.70—2736, 2747

16 TAC §§65.81-65.93—2737, 2748

16 TAC §§65.101-65.108—2737, 2748

16 TAC §§65.121-65.124—2737, 2748

16 TAC §69.54—2977, 2985

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §1.7—2748

19 TAC §§1.21-1.40—2750

19 TAC §§1.21-1.56—2749

19 TAC §9.63—2985

19 TAC §21.59—2986

19 TAC §§21.251-21.263—2993

19 TAC §§21.251-21.266—2993

Part II. Texas Education Agency

19 TAC §§69.127, 69.129—2649

19 TAC §149.43—2681

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

22 TAC §1.25—2738, 2752

22 TAC §1.88—2900

22 TAC §1.122—2900

Part IV. Texas Cosmetology Commission

22 TAC §§81.1-81.8—2900

22 TAC §83.3—2752

22 TAC §83.15—2900

22 TAC §§85.1-85.3, 85.11-85.13, 85.21-85.23, 85.31-85.33, 85.41—2900

22 TAC §87.1-87.10, 87.21, 87.22, 87.31-87.34—2901

22 TAC §89.8—2752

22 TAC §89.13—2752

22 TAC §89.17—2753

22 TAC §89.20—2753

22 TAC §89.38—2753

22 TAC §89.3^c—2754

22 TAC §89.70—2754

22 TAC §89.72—2940

Part V. State Board of Dental Examiners

22 TAC §115.10—2940, 2981

22 TAC §107.63—2952

22 TAC §116.4—2952

22 TAC §116.5—2952

Part IX. State Board of Medical Examiners

22 TAC §163.2—2650

Part XXII. Texas State Board of Public Accountancy

22 TAC §501.2—2949

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §31.4—2901

25 TAC §§229.141-229.149—2755

25 TAC §§229.291-229.298—2755

25 TAC §229.334—2941

25 TAC §325.731—2952

Part II. Texas Department of Mental Health and Mental Retardation

25 TAC §402.44—2773

Part VII. Texas Medical Disclosure Panel

25 TAC §601.1—2795, 2941

Part XXV. Structural Pest Control Board

22 TAC §593.23—3038

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§3.1-3.5—2995

28 TAC §3.3030—3006

28 TAC §§8.1-8.3—2650

28 TAC §15.25—3006

28 TAC §§27.801-27.808—2681

Part II. Industrial Accident Board

28 TAC §42.110—2987, 3007

**TITLE 31. NATURAL RESOURCES
AND CONSERVATION**

Part I. General Land Office

31 TAC §1.91—2774

31 TAC §2.1, §2.2—2774

31 TAC §3.1—2987

31 TAC §§3.1-3.12, 3.14, 3.15—2942

31 TAC §§3.1-3.12, 3.14-3.15, 3.21-3.25, 3.31-3.34, 3.41-3.43, 3.51-3.52, 3.61, and 3.71—2774,

31 TAC §§3.21, 3.23-3.25—2942

31 TAC §§3.31-3.34—2942

31 TAC §§3.41-3.43—2943

31 TAC §§3.51-3.52—2943

31 TAC §3.61—2943

31 TAC §3.71—2944

31 TAC §§9.1-9.12—2775

31 TAC §9.21—2944

31 TAC §11.11-11.17—2794

31 TAC §§153.11-153.15—2944

31 TAC §§153.21-153.37—2944

31 TAC §§153.61-153.66, 153.71—2945

Part IX. Texas Water Commission

31 TAC §§294.10-294.12—3045

31 TAC §305.62, §305.66—3046

31 TAC §305.153, §305.154—3046

31 TAC §305.521—3008

31 TAC §§311.61-311.66—2652

31 TAC §§331.2, 331.8-331.10—3048

31 TAC §§331.42, 331.44-331.46, 331.48—3049

31 TAC §§331.62-331.68—3051

31 TAC §331.121—3055

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.548—3008

34 TAC §3.554—2738

34 TAC §3.565—2738

34 TAC §3.640—2795

Part VII. State Property Tax Board

34 TAC §163.6—3039

Part IX. Bond Review Board

34 TAC §§181.3-181.5—2901

Part IV. Employees Retirement System

34 TAC §81.7—2937, 2945

34 TAC §85.1—2953

34 TAC §85.7—2946

**TITLE 37. PUBLIC SAFETY AND
CORRECTIONS**

Part III. Texas Youth Commission

37 TAC §119.3—2683

Part V. Board of Pardons and Paroles

37 TAC §141.21—2654

37 TAC §141.41, §141.42—2654

37 TAC §141.72, §141.73—2654

37 TAC §141.101—2655

37 TAC §141.111—2655

37 TAC §§143.1-143.12—2655

37 TAC §§143.2-143.11—2656

37 TAC §143.22—2657

37 TAC §143.52—2657

37 TAC §§145.1-145.21—2657

37 TAC §§145.2-145.12, 145.14-145.16—2659

37 TAC §§145.21-145.28—2660

37 TAC §§145.22-145.26—2660

37 TAC §§145.41, 145.42, 145.43—2662

37 TAC §§145.44-145.55—2663

37 TAC §§145.62—2669

37 TAC §§145.71, 145.72—2669

37 TAC §§147.1, 147.3, 147.5, 147.7—2669

37 TAC §147.27—2670

37 TAC §§149.1-149.6—2670

37 TAC §§149.2-149.7—2673

37 TAC §§149.11, 149.13, 149.15-149.17—2673

37 TAC §§149.13, 149.16-149.18—2674

37 TAC §§150.1-150.9—2674

Part X. Texas Adult Probation Commission

37 TAC §§321.1, 321.3, 321.5, 321.8—2683

37 TAC §§321.12-321.14, 321.16—2676

37 TAC §§323.1-323.3—2684

37 TAC §§325.1-325.12—2684

**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

Part I. Texas Department of Human Services

40 TAC §§3.2201, 3.2203, 3.2204—2684

40 TAC §5.1002—2947

40 TAC §7.101—2902

40 TAC §7.1210—2947

40 TAC §§8.1-8.9—2981

40 TAC §8.9—2987

40 TAC §§10.7001-10.7008—2684

40 TAC §29.502—2685

40 TAC §29.603, §29.606—2685

40 TAC §35.9001—3057

40 TAC §41.104—3060

40 TAC §47.2907, §47.2914—2677

40 TAC §50.903, §50.904—3008

40 TAC §50.1901, §50.1902—3009

40 TAC §§50.2903, 50.2904, 50.2909—3009

40 TAC §§50.3901-50.3906, 50.3908, 50.3909, 50.3911,
50.3912—3010

40 TAC §50.4902—3011

40 TAC §53.301—2678

40 TAC §53.404—2678

40 TAC §73.4109—2947

40 TAC §73.4114, §73.4115—2947

40 TAC §§79.1203, 79.1207, 79.1208—2948

40 TAC §§8.1-8.8—2986

TITLE 43. TRANSPORTATION

***Part I. State Department of Highways and Public
Transportation***

43 TAC §§21.31, 21.32, 21.35, 21.37-21.40, 21.42-21.46,
21.48-21.51, 21.53, 21.54—2679

43 TAC §§21.33, 21.41—2679



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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter P. Commercial Zones

• 16 TAC §5.294

The Railroad Commission of Texas proposes an amendment to §5.294, concerning existing commercial zones. The amendment as proposed by the commission would add the City of Roanoke to the existing Dallas and Fort Worth commercial zones.

Jackye Greenlee, assistant director-central operations, 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.

Jan Barton, hearings examiner, 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 increase the number of available for-hire carriers to transport commodities between the existing Dallas-Fort Worth commercial zones and the City of Roanoke. 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 Raymond A. Bennett, Director of Transportation/Gas Utilities Division, and to Jan Barton, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 911b, §1(g)(4), which authorize the Railroad Commission of Texas to prescribe commercial zones.

§5.294. Existing Commercial Zones. Commercial zones defined and prescribed by the commission after notice and hearing are as follows.

(1) The Dallas commercial zone shall include the following:

(A)-(I) (No change.)

(J) the incorporated City of
Roanoke.

(2) The Fort Worth commercial zone shall include the following:

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

(H) the incorporated city of
Roanoke.

(3)-(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 June 12, 1989.

TRD-8905220

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

Earliest possible date of adoption: July 21, 1989

For further information, please call: (512) 463-7095.

Subchapter Z. Base Rates, Deviations, and Suspensions

• 16 TAC §5.587

The Railroad Commission of Texas proposes an amendment to §5.587, concerning base rate deviation procedures. The amendment is proposed pursuant to a petition from the Common Carrier Motor Freight Association, Inc. The amendment will allow rate deviations to be applicable for named shippers

Jackye Greenlee, assistant director-central operations, 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.

Ronald D. Stutes, hearings examiner 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 is increased flexibility in designing rate deviations to meet particular economies and efficiencies. 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 Ronald D. Stutes, Hearings Examiner, Le-

gal Division, and Raymond A. Bennett, Director, Transportation/Gas Utilities Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes Article 911b §4(a)(4), which authorizes the commission to establish procedures for deviations by common carriers.

§5.587. Base Rate Deviation Procedures.

(a)-(b) (No change.)

(c) No deviation request may [:

[(1) include the name of a shipper for whom the deviation will apply; or

(2)] be filed by a carrier(s) if that carrier(s) has filed a deviation request, not yet published in the weekly notice pursuant to subsection (g) of this section, which is applicable to the same traffic.

(d)-(g) (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 June 12, 1989.

TRD-8905219

Cril Payne
Assistant Director, Legal
Division
Railroad Commission of
Texas

Earliest possible date of adoption: July 21, 1989

For further information, please call: (512) 463-7094

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

General Rules

• 16 TAC §23.3

The Public Utility Commission of Texas proposes an amendment to §23.3, concerning definitions, to treat qualified businesses under the Texas Enterprise Zone Act, Texas Civil Statutes, Article 5190.7, as a separate customer class of electric utilities.

Martin Wilson, assistant general counsel, 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 en-

forcing or administering the section.

Mr. Wilson 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 the opportunity for additional incentives, in the form of reduced electric rates, for businesses to locate or remain in areas of pervasive poverty, unemployment, and economic distress. 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 Mary Ross McDonald, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, within 30 days after publication.

The amendment is proposed under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make rules reasonably required in the exercise of its powers and jurisdiction.

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

Class of service or customer class—A description of utility service provided to a customer which denotes such characteristics as nature of use or type of rate. Classes may be further subdivided into grades denoting quality of service. **Qualified businesses as defined by the Texas Enterprise Zone Act, Texas Civil Statutes, Article 5190.7,** shall be considered to be a separate customer class of electric utilities.

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 June 13, 1989.

TRD-8905204

Mary Ross McDonald
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: July 21, 1989

For further information, please call: (512) 458-0100

TITLE 22. EXAMINING BOARDS

Part XXV. Structural Pest Control Board

Chapter 593. Licenses

• 22 TAC §593.23

The Structural Pest Control Board proposes new §593.23, concerning the licensing and regulation of the structural pest control industry. The Structural Pest Control Board is adding this new section to inform interested parties of the criteria for evaluating continuing education programs required by existing §593.22.

David A. Ivie, executive director, 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. Sections 593.22 and 593.23 are interrelated and all costs were included in §593.22.

Mr. Ivie 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 that the public will be informed of the board approved standards for continuing education programs. 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 David A. Ivie, 9101 Burnet Road, Suite 201, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to establish standards for testing, licensing, and regulating persons engaged in the structural pest control business.

§593.23. Criteria and Evaluation of Continuing Education.

(a) Each continuing education program submitted for approval shall contain the following:

(1) a brief statement giving the course objective(s), information to be gained, or teaching points;

(2) the procedure to be used in verifying the participant's comprehension of subject matter presented. These methods may include, but are not limited to, examination and post-activity questionnaires, practical applications, field demonstrations, in-class workbooks, or any other recognized educational technique that would assure mastery of subject matter;

(3) a list of handout materials, if any, which will be distributed to participants during the course;

(4) inclusive length of time of the course stated in minutes, hours, or days;

(5) first date of presentation;

(6) category(ies) in which continuing education units are requested; and

(7) a course outline in sufficient detail so as to indicate the scope of the course.

(b) The minimum requirements to qualify as a speaker or course presenter are:

(1) a degree from a recognized institution of higher learning which pertains to the course being taught;

(2) five years' experience as an applicator certified by the Structural Pest Control Board with a current license in the specialty to be taught;

(3) verifiable proof of training and teaching experience within the preced-

ing three years; or

(4) a combination of education, work related training, and teaching experience which, in the opinion of the board, would be equivalent to two of the three requirements above.

(c) Each continuing education program submitted for approval shall be accompanied by the following information on each speaker or course presenter:

(1) speaker name, address, telephone number and company, organization, or institution of higher learning affiliation;

(2) a resume which includes, but is not limited to, the following information:

(A) formal education-degrees held and granting institutions;

(B) industry-related technical experience which relates to the subject matter to be taught;

(C) industry-related teaching experience which relates to the subject matter to be taught;

(D) address and telephone number of at least three references;

(E) membership in trade associations and/or professional organizations; and

(F) publications as sole or junior author.

(d) Each continuing education program submitted for approval will be accompanied by:

(1) a means or system which verifies that participants attended the training program throughout its stated length. These systems may include, but are not limited to, sign-in-sign-out rosters, course completion certificates, or the system may be incorporated into the means to verify the participant's comprehension of subject matter presented;

(2) a certificate of completion. This document must include at least the following information:

(A) certified applicator name and certified applicator's assigned number;

(B) name of sponsor or sponsoring agency, company, or organization;

(C) number of continuing education units awarded;

(D) date and location of training event.

(3) a statement that the sponsor agrees to maintain attendance records for three years and that a list of participants will be forwarded to the board within 14 days of completion of the training course.

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 June 9, 1989.

TRD-8905189 David A. Ivie
Executive Director
Structural Pest Control
Board

Earliest possible date of adoption: July 21, 1989

For further information, please call: (512) 835-4066



TITLE 34. PUBLIC FINANCE
Part VII. State Property Tax Board

Chapter 163. Reporting Procedures

• **34 TAC §163.6**

The State Property Tax Board proposes an amendment to §163.6, concerning certification of appraisal roll summaries to the State Property Tax Board. Currently, the section requires chief appraisers to submit a summary of the county appraisal roll to the State Property Tax Board. Beginning January 1, 1990, the amendment requires chief appraisers to certify a copy of the appraisal roll to the board by October 1 or 30 days after the date the chief appraiser submits the appraisal roll for county tax purposes to the county assessor-collector, whichever is later. The amendment also requires the chief appraiser to submit a supplemental roll, if any, to the board within 30 days after the date the chief appraiser certifies the supplemental roll to the affected taxing units. The amendment permits the chief appraiser to file the appraisal roll and the supplement in paper, microfiche, or electronic form through the 1992 tax year. Beginning with the 1993 year, the amendment requires submission of the appraisal roll and the supplements in electronic form. The amendment sets out the field specifications and the information required to be submitted in electronic form.

Sands Stiefer, general counsel, 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 other than appraisal districts, or small businesses as a result of enforcing or administering the section.

Appraisal districts will not incur revenue losses or gains, but they will incur administrative costs. The amount of administrative cost will depend upon the existing computer capacity of the appraisal districts. The following cost estimate assumes that 250 of the 253 appraisal districts currently have the capacity to produce an appraisal roll in electronic form and that an appraisal roll submission will require an average of two tapes. Appraisal districts that currently have the capacity to produce an appraisal roll in electronic form may experience administrative costs of about \$200 for programming to begin producing rolls in the required format. The total cost for these 250 districts would be \$200 x 250 or \$50,000. The estimate assumes that all districts will incur this cost in the first year the section is in effect. It also assumes that 125 of the 250 districts will incur costs of approximately \$50 per tape to convert their computer tapes to the required format. A district that does not possess the capacity to produce appraisal rolls in electronic form is not required to comply with the electronic filing requirement, it is assumed that three districts will submit hard copies of their appraisal rolls rather than electronic rolls. We estimate that a hard copy appraisal roll containing 45,000 entries would require 700 pages at a cost of \$.02 per page.

**Estimated additional cost
(Total for all appraisal districts)**

	1990	1991	1992	1993	1994
Programming	\$50,000	0	0	0	0
Tape conversion	\$ 2,500	2,500	2,500	2,500	2,500
Hard copies	\$ 41	41	41	41	41
Total:	\$52,541	2,541	2,541	2,541	2,541

The administrative cost to appraisal districts for the first five-year period the proposed section is in effect is as follows.

Mr Stiefer 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 the creation of a central repository of appraisal information and greater accuracy in the board's studies. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Ron Patterson, Executive Director, State Property Tax Board, 4301 Westlake High Drive, Building B, Suite 100, Austin, Texas 78746-6565.

The amendment is proposed under the Tax

Code, §26.01(b), which requires the chief appraiser to certify the appraisal roll to the State Property Tax Board when he submits the appraisal roll for county tax purposes to the county assessor-collector.

§163.6. Certification of Appraisal Roll [Summary].

(a) Beginning with the 1990 tax year, the chief appraiser shall certify a copy of the appraisal roll for the appraisal district and a copy of each supplemental appraisal roll for the appraisal district to the State Property Tax Board. The original appraisal roll shall be delivered to the State Property Tax Board by October 1 or 30 days after the date the chief appraiser submits the appraisal roll

for county tax purposes to the county assessor-collector, whichever is later. A supplemental roll, if any, shall be delivered to the board within 30 days after the date the chief appraiser certifies a supplemental roll to the affected taxing units [Pursuant to Texas Property Tax Code, §26.01(b), each chief appraiser shall certify to the State Property Tax Board only a summary of the appraisal roll county taxes for the county he appraises. The appraisal roll summary shall be certified and submitted at the same time the chief appraiser submits the appraisal roll county taxes to the county assessor-collector].

(b) Subject to the provisions of subsection (i) of this section, the chief appraiser shall submit the appraisal roll

and all supplemental appraisal rolls for tax years 1990, 1991, and 1992 in one of the following formats [The chief appraiser's appraisal roll summary, for purposes of this section, shall contain the following items of information]:

(1) on standard microfiche, together with an index to the microfiche; [the total market value for the county];

(2) on magnetic or computer tape, provided the tape conforms to the standards described in subsections (d)-(h) of this section; or [the total taxable value of the county; and]

(3) If the district cannot supply copies in either form, by computer printout or typed copy bound in books of no more than 500 sheets each, together with an alphabetical index. [an affirmation above the chief appraiser's signature stating: "I, _____, Chief Appraiser for _____ County, solemnly swear that I have made or caused to be made a diligent inquiry to ascertain all property in the county subject to appraisal by me and that I have included in this summary the market and taxable values of all property that I am aware of at an appraised value determined as required by law."]

(c) Subject to the provisions of subsection (i) of this section, beginning with the 1993 tax year, each appraisal roll and supplemental roll shall be submitted on magnetic tape.

(d) Appraisal rolls and supplemental appraisal rolls submitted on automated media must meet the following specifications: computer tape must be 1600 or 6250 B.P.I., EBCDIC or ASCII, non-labeled or standard-labeled, and nine-track; eight inch diskettes must be in the following formats: H Exchange must be double-sided, double density with a sector size of 256 bytes and one record per sector; I Exchange must be single or double-sided with sector sizes of 256 or 512 bytes or double-sided, double density with sector sizes of 256, 512, or 1024 bytes; and 3 1/2 inch or 5 1/4 inch diskettes must be double-sided, double density or high density, and readable on an IBM or compatible PC XT or AT machine. Districts may submit a sample tape in advance to assure readability. The executive director may require a district to submit a printout of the tape if the agency encounters difficulties reading the tape.

(e) Each tape shall be clearly labeled with the name of the appraisal district and the date of certification of the appraisal roll to the county assessor-collector. A supplemental appraisal roll shall be labeled with the date of certification of the supplemental roll to the affected taxing units.

(f) If more than one category of property is included in an account under

a single parcel number, the district shall list each category of property as a separate record. The district may use the same parcel number for each such record.

(g) The tape shall list information prescribed in this subsection for each property listed on the roll. All numeric fields must be unpacked, right-justified, and zero-filled to the left. Where information in a field does not apply to a particular account (for example, land value for a personal property account), the field must be zero-filled or blank-filled. The information on the tape must be in the following order:

(1) two characters denoting the State Property Tax Board use category of the property as set out in subsection (h) of this section (alphanumeric, two character field length);

(2) nine characters denoting the three digit code assigned by the State Property Tax Board to the appraisal district in which the property is located, followed by the six-digit number assigned to the school district in which the property is located (numerical, nine character field length);

(3) the legal description of the property, or, if not available, the street address of the property (alphanumeric, 150 character field length);

(4) the appraisal roll account number for the property (alphanumeric, 25 character field length);

(5) the total market value for the property before exemptions or special appraisal (numerical, nine character field length);

(6) the market value of the land included in the account (numerical, nine character field length);

(7) if applicable, the productivity value of land that qualified for agricultural appraisal under the Tax Code, Subchapters C, D, or E, (numerical, nine character field length);

(8) if applicable, the value of land that qualified for special valuation as recreational, park, and scenic land or as public access airport property under the Tax Code, Subchapters F or G, (numerical, nine character field length);

(9) the market value of the improvements included in the account (numerical, nine character field length);

(10) whether the property qualified for a residence homestead exemption (Y = yes, blank = no; alphanumeric, one character field length);

(11) whether the property received the \$10,000 exemption from school taxes provided by the Tax Code, §11.13(c), (Y = yes, blank = no; alphanumeric, one character field length);

(12) whether the property received a limitation on school district taxes for residence homesteads of the elderly (Y = yes, blank = no; alphanumeric, 1 character field length);

(13) the amount of any exemption for solar and wind-powered energy devices that applied to the property (numerical, nine character field length);

(14) the amount of any exemption for disabled veterans that applied to the property (numerical, nine character field length);

(15) subject to the provisions of subsection (i)(3) of this section, the amount of any exemption from school taxes for a tax abatement that applied to the property or the captured appraised value for school tax purposes of property located in a tax increment financing reinvestment zone (numerical, nine character field length); and

(16) the taxable value of the property for school purposes after subtraction of exemptions, including local, optional exemptions (numerical, nine character field length);

(h) For the purposes of this section, property shall be classified by use according to the State Property Tax Board use classifications denoted by the following two character codes (alphanumeric, two character field length with a letter followed by a number or a blank space):

(1) A—single family residential real property;

(2) B—Multi-family residential real property;

(3) C—vacant lots and tracts;

(4) D—real property acreage;

(5) E—farm and ranch improvements;

(6) F1—commercial real property;

(7) F2—Industrial real property;

(8) G—oil, gas, and other mineral property;

(9) H—non-business vehicle;

(10) J—utility real and personal property;

(11) L1—commercial business personal property;

(12) L2—Industrial business personal property;

(13) M—non-business tangible personal property;

(14) N—intangible personal property; and

(15) O—residential real property inventory.

(l) If requested to do so in writing by an appraisal district at least 30 days before the applicable deadline for submission of an appraisal roll, the executive director may waive the provisions of this section requiring submission in electronic format as follows.

(1) Submission in electronic format may be waived if the appraisal district does not produce an appraisal roll by computer or is unable to produce the roll without substantial modification or expense.

(2) The requirements of subsection (d) of this section may be waived if the appraisal district can supply the appraisal roll in an alternate electronic format or medium acceptable to the executive director.

(3) submission of the information required by subsection (g)(15) of this section in electronic format may be waived if the district cannot provide the information in electronic format without substantial modification or expense.

(j) The executive director shall return either the district's tape or a blank substitute tape to the district.

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 June 12, 1989.

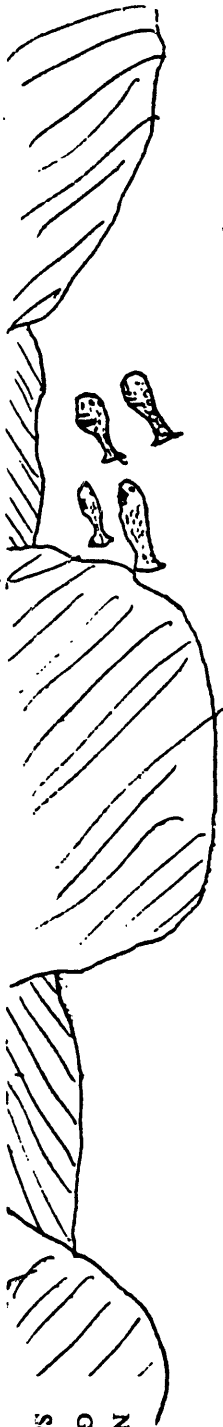
TRD-8905169

Ron Patterson
Executive Director
State Property Tax Board

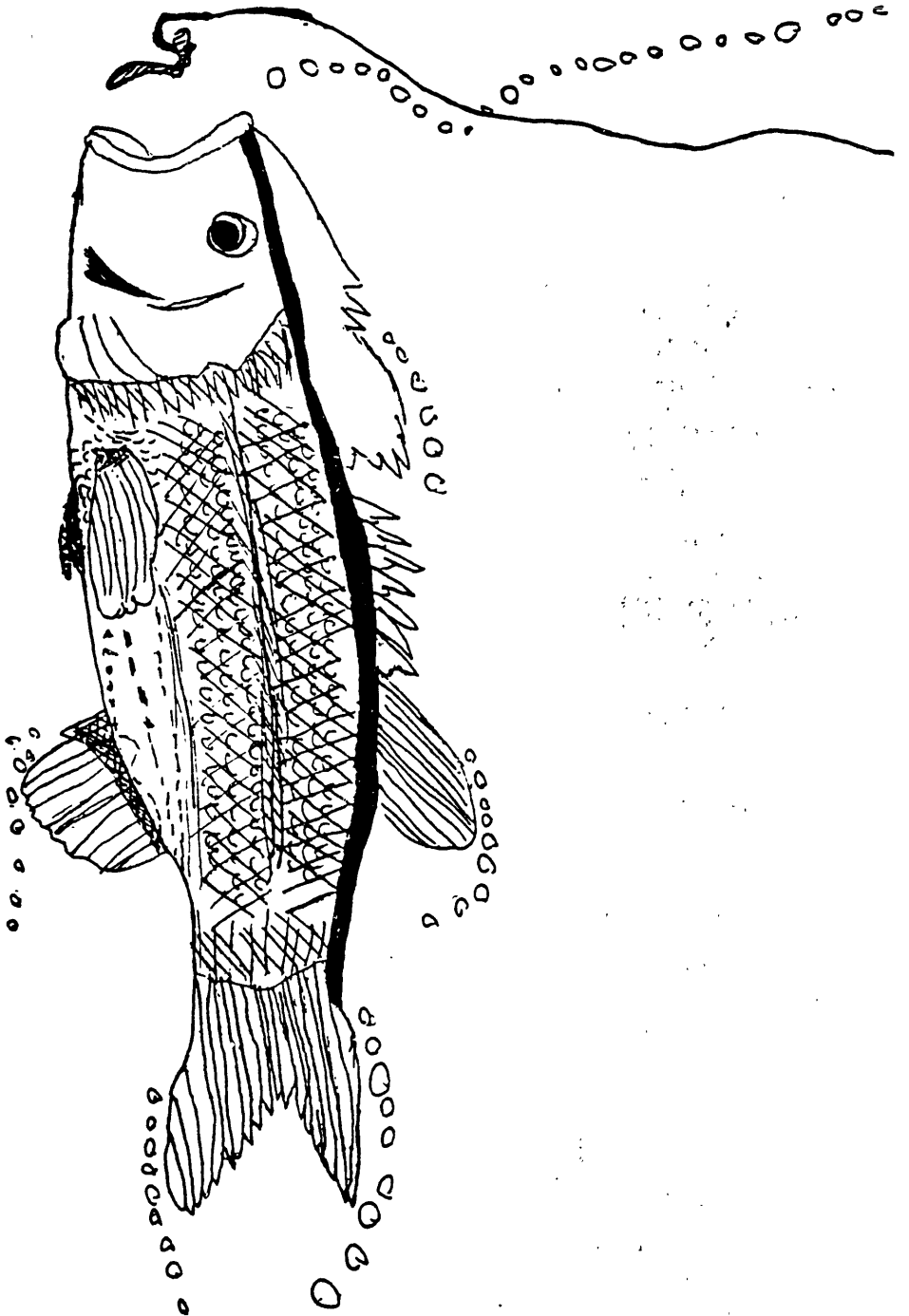
Earliest possible date of adoption: July 21, 1989

For further information, please call: (512) 834-4901





Name: Levon Ayala
Grade: 6
School: H.B. Zachry Middle School, Northside



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 10. COMMUNITY DEVELOPMENT

Part I. Texas Community Development Program

Chapter 9. Texas Community Development Program

Subchapter B. Contract Administration

• 10 TAC §9.41

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §9.41, submitted by the Texas Community Development Program has been automatically withdrawn, effective June 14, 1989. The amendment as proposed appeared in the December 13, 1988, issue of the *Texas Register* (13 TexReg 6151).

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.

TRD-8905243

Filed: June 14, 1989





Name: Analiza Garcia

Grade: 6

School: H.B. Zachry Middle School, Northside

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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter X. Agricultural Permits

• 16 TAC §5.535

The Railroad Commission of Texas adopts amendment to §5.535, with changes to the proposed text as published in the February 21, 1989, issue of the *Texas Register* (14 *TexReg* 939).

The amendment, as changed, will clarify the scope of the agricultural commodities exemption. The amendment as proposed defined original producer or grower as any person who has title or partial title to any agricultural commodity when the commodity is harvested. The amendment as adopted will extend that definition only with regard to timber in its natural state.

The amendment as adopted will allow harvesters of timber who take title to timber while still standing to ship the harvested timber via agricultural permit holders.

Public comment was received in opposition to the rule from numerous transporters of agricultural commodities other than timber, primarily motor carriers transporting livestock, who argued that the rule as proposed would exempt a great deal of now regulated transportation, would cause a decline in highway safety, and would be beyond the commission's statutory authority. Public comments in favor of the rule were received from persons in the timber industry who cited the unique status of timber as an agricultural product, and from persons in the cattle feeding industry who cited ownership for significant periods prior to harvest as constituting sufficient interest to benefit from the exemption.

Comments in favor of the proposed amendment were received from the Texas Cattle Feeders Association and the Texas Forestry Association. Comments in opposition to the proposed amendment were received from the Texas Agricultural Distributors Association and the Livestock Carriers Distributors Association and the Livestock Carriers Association.

The commission agrees with the comments submitted, and thus limits the effect of the proposed rule to the timber industry. With respect to cattle feeders, it has been the commission's practice prior to this amendment that ownership of cattle at a feed lot for

any period of time constitutes original production, and thus such situation is not to be corrected by this amendment.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to regulate motor carriers in all matters.

§5.535. *Definitions of Key Terms Relating to Agricultural Commodities Exemption.*

(a) (No change.)

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

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

(3) Original producer or grower—Any producer or grower who holds title or partial title to the eligible agricultural commodity, and who supervises or oversees the natural growth or production of the eligible agricultural commodity. With respect to timber in its natural state, a person shall have supervised or overseen the natural growth or production of the timber in its natural state if the person holds title or partial title to the timber when it is harvested.

(4)-(8) (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 June 12, 1989.

TRD-8905218 Kent Hance
 Chairman
 Railroad Commission of
 Texas

Effective date: July 5, 1989

Proposal publication date: February 21, 1989

For further information, please call: (512) 463-7094



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 294. Underground Water Management Areas

Subchapter B. Antlers Sand Aquifer

• 31 TAC §§294.10-294.12

The Texas Water Commission adopts new §§294.10-294.12, without changes to the proposed text as published in the December 27, 1988, issue of the *Texas Register* (13 *TexReg* 6446).

The new sections concern the Antlers Sand Aquifer and are required to designate the Union Hill Underground Water Management Area therein.

The new sections designate the area to be included if an underground water conservation district is created in the Antlers Sand Aquifer in Callahan County.

The commission received comments from West Central Texas Municipal Water District ("WCTMWD"). WCTMWD neither opposed nor supported adoption of the proposed sections. Instead, WCTMWD expressed a concern that the area might be too small and requested an additional year to study the matter and determine their position.

The Texas Water Commission notes the point that WCTMWD makes, but has decided to proceed with the designation because the area included in the proposed sections is based on the geological considerations stated in the Texas Water Code, §52.024 and can be amended pursuant to this section, if new information indicates that a larger area would be more appropriate.

The new sections are adopted under the Texas Water Code, §5.103 and §5. 105, which provide Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission. Specifically, the Texas Water Code, §52.024 grants the commission the authority to designate underground water management areas.

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 June 14, 1989.

TRD-8905228

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: July 5, 1989

Proposal publication date: December 27, 1988

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

◆ ◆ ◆
Chapter 305. Consolidated Permits

Subchapter C. Application for Permit

The Texas Water Commission (TWC) adopts amendments to §§305.49, 305.62, 305.66, 305.153, 305.154, and repeals of §305.152 and §305.159. Section 305.154 is adopted with changes to the proposed text as published in the April 21, 1989, issue of the *Texas Register* (14 TexReg 1901). Sections 305.49, 305.62, 305.66, 305.152, 305.153, and 305.159 are adopted without changes and will not be republished. 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 also required to meet the treatment standards promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Resource 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. The treatment standards were promulgated in accordance with the land disposal prohibitions.

Section 305.152, concerning corrective action, is repealed from the chapter and has been added to Chapter 331, §331.44, concerning the regulation of underground injection wells. The additional requirements for Class I injection wells found under §305.159 is repealed from this chapter. These requirements have been added to Chapter 331, §331.66.

The commission received oral and written comments on the proposed regulations. The Texas Chemical Council and E.I. DuPont DeNemours and Company expressed concern regarding §305.66(a)(7) which authorized the revocation of an underground injection well permit either because the definition of hazardous waste under 31 Texas Administrative Code (TAC) had been revised or because a previous determination had been changed resulting in a nonhazardous waste classification becoming a hazardous waste classification. This provision tracks the federal regulations and must conform to the federal regulations in order that state primacy may be maintained; therefore, this provision has not been changed. Hunter Industrial Facilities, Incorporated requested that the commission broaden the scope of methods available to demonstrate financial assurance. The commission is considering other financial assurance mechanisms. However, the limited purpose of this rule-making was to

adopt amendments to the state rules as required in order to maintain primacy of the state rules as required in order to maintain primacy of the state in the regulation of underground injection wells. It is likely Hunter's concern will be addressed in future amendments. The Sierra Club expressed a concern with the proposed change defining protection in terms of "underground sources of drinking water" (USDW) rather than "fresh water". The commission agrees that the Injection Well Act, Texas Water Code, §27.501 (Vernon Supp. 1988); requires that the terms and conditions of UIC permits protect "fresh water". Therefore, the appropriate sections have been amended to include the term "fresh water" as a consideration in addition to USDW so that the federal and state criteria will both be met.

The amendment is adopted 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 as 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.

§31 TAC §305.49

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 June 14, 1989.

TRD-8905226

Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 5, 1989.

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

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

• 31 TAC §305.62, §305.66

The amendments are adopted under the Texas Water Code, §5.103 and §5.105, which provide 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, autho-

rizes TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. TWC is designated as 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.

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 June 14, 1989.

TRD-8905227

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: July 5, 1989

Proposal publication date: April 21, 1989

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

◆ ◆ ◆
Subchapter H. Additional Conditions for Injection Well Permits

• 31 TAC §305.153, §305.154

The amendments are adopted 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 as 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.

§305.154. 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 requirements. The permittee shall notify the executive director and obtain approval before plugging an injection well. Section 331.46 of this title (relating to Plugging and Abandonment Standards).

(9) Corrective action requirements. Section 331.44 of this title (relating to Corrective Action Standards).

(10) Post-closure requirements. Section 331.68 of this title (relating to Post-Closure 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.

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

TRD-8905225

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: July 5, 1989

Proposal publication date: April 21, 1989

For further information, please call: 512-463-8087.

Chapter 331. Underground Injection Control

Subchapter A. General Provisions

The Texas Water Commission adopts 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. Sections 331.2, 331.8-331.10, 331.44-331.46, 331.48, 331.62-331.67, 331.121, and new 331.68, are adopted with changes to the proposed text as published in the April 21, 1989, issue of the *Texas Register* (14 TexReg 1903). Section 331.42, is adopted without changes and will not be republished.

Sections 331.2, 331.8-331.10, 331.42, 331.44-331.46, 331.48, 331.62-331.67, 331.121, and new 331.68, of the underground injection control rules are 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 the 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 CFR Part 148, the hazardous waste injection restrictions which include the petition for no migration requirements, are not included in these amendments.

Section 331.2 is amended to include those definitions which were promulgated by the EPA. The definition of "existing well" and "new well" are amended to conform to the definitions set out in the federal regulations.

Section 331.9 is 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 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 were removed from 31 Texas Administrative Code (TAC), Chapter 305 and added to subchapter C of this title at §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 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 amended to include additional requirements and considerations. Additional requirements and considerations for reporting requirements have been added to §331.65.

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

New §331.68 is 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 amended to conform to the federal regulations. The majority of the amendments concern corrective action standards, post-closure care requirements, and siting requirements for Class I underground injection wells.

In large part, the amendments track the federal promulgation. However, the amendments are more stringent in two respects. The amendments will govern all Class I wells with the exception of the requirements for post-closure care which pertain only to Class I hazardous waste wells. Additionally, the 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 and fresh water.

The commission received oral and written comments on the proposed regulations. The purpose of the rule-making was to achieve consistency between the state and federal programs to maintain primacy; therefore, to the extent that comments submitted were inconsistent with the federal program, the commission declined to change the proposed rules. The majority of the comments submitted addressed concerns involving the standards for Class I wells. The commission believes that most of these rules, when read in conjunction with the definitions, fulfill the agency's goals of protecting human health and the environment while taking into consideration prevailing industrial operations. However, some changes were made to the proposed rules in response to the comments which were submitted.

The Sierra Club expressed concerns that the construction standards set out in the state

rules were less stringent than the federal requirements. In response to these comments, the regulations have been amended to require integrity testing of the cement bond after the casing is set for surface intermediate and long string casing and to require a temperature or noise log. In addition, other Class I well standards have been amended to more closely conform to the federal requirements in response to comments of the Sierra Club.

The Texas Chemical Council, Hunter Industrial Facilities, Inc. (Hunter), and E.I. DuPont De Nemours & DuPont Company (DuPont), and the law firm of Brown Maroney & Oaks Hartline submitted comments urging more flexibility in the standards. Several comments submitted by the above mentioned entities addressed the requirement regarding continuous monitoring and recording of annulus fluid volumes. The commission believes that detection of mechanical integrity failures by monitoring only annulus pressure changes is inadequate. Annulus pressure can, and has been, maintained in wells which lack mechanical integrity by the operator continually replacing annulus fluids as they are lost. Consequently, the commission adopted the requirement for monitoring of annulus fluid volumes as a part of its Class I disposal well permits, and now proposes to enter this existing requirement into the regulations. The fluid monitoring system would be a part of the alarm system required by 31 TAC 331.64(c), and would not impose a significant additional expense over the total costs of that system. Additionally, many operators already use automatic annulus fluid loss detection systems incorporating an alarm. The commission feels that these systems have been proven effective in the timely detection of annulus fluid loss. The law firm of Brown Maroney & Oaks Hartline expressed concern that normal changes in annulus fluid volumes from temperature and other operational effects could be interpreted as mechanical integrity failures by the commission. The commission is familiar with these phenomena and believes normal volumetric changes can be distinguished from changes due to loss of annular fluid resulting from a loss of mechanical integrity. In response to comments regarding the prohibition on the use of hazardous waste streams in any workover or testing operation, the commission has amended the proposed language to clarify the intent of the section. The purpose of the prohibition was to protect personnel from exposure to the waste streams. The commission believes that where appropriate precautions are taken, hazardous waste streams may be used in workovers or testing operations if the well is flushed with non-hazardous fluid before conducting any operation which would result in the exposure of the hazardous waste to the environment or to the public.

The Texas Chemical Council urged more flexibility in the mechanical integrity demonstration schedules to allow for production requirements. The commission has added language which would allow the interval for testing to be extended up to 15 months upon approval of the executive director. The commission believes this will adequately address concerns with respect to the public health and the environment while recognizing the operation requirements of industry. In addition, the section was amended to make clear that testing will not be required after closure in-

sponse to comments of Hunter Industrial Facilities, Inc.

The Texas Chemical Council and DuPont urged the commission to consider less frequent calibration of gauges so as not to necessitate redundant instrumentation. The commission has solicited several injection well operators for information regarding the frequency of testing and calibration of gauges and instrumentation within the plant production units. The majority of those responded that process instrumentation was tested and calibrated on a quarterly basis. One operator indicated that they calibrate on a monthly basis. The commission believes that requiring quarterly testing and calibration of disposal well instrumentation is justified as being protective of the public health and the environment and is no more burdensome than industry practice regarding production units.

DuPont submitted comments addressing changes in the reporting requirements. The commission believes the regulations conform to the federal regulations and are not overly burdensome in their requirements. The commission has amended §331.68(b)(5), to require record retention for a period of five years instead of three years so as to be consistent with §331.67(c), which requires all records to be kept for a period of five years following abandonment. Hunter submitted comments regarding perceived problems with the notification requirements pertaining to anticipated testing, workover, or maintenance operations. The intent of these requirements is to insure that the executive director is notified of any anticipated testing, workover, or maintenance operations. It is also to insure that the executive director is informed of the anticipated procedures to be followed and has opportunity to comment on or revise the procedures if necessary. This subsection is not intended to apply to unexpected mechanical failures of surface facilities, but only to the subsurface portion of the well and directly related components such as the wellhead and annulus pressure equipment. Other related surface facilities such as pumps, filters, and tankage are regulated under the RCRA Part B permit. The definition of "out of service" has been modified to clarify this point. In addition, this subsection has not been amended, only renumbered. Therefore, the time for comments has already expired.

DuPont also submitted comments expressing concerns with the construction requirements. Specifically, they urged the commission to clarify the regulations so as not to require retrofitting of wells which were authorized prior to August 25, 1988. The commission agrees to the extent that the federal regulations differentiate between new and existing wells. The pertinent paragraphs have been amended as necessary to conform to the federal program.

Comments regarding proposed definitions were submitted by the Sierra Club, DuPont, Hunter, the Texas Chemical Council, and the law firm of Brown Maroney and Oaks Hartline. Several of these submittals addressed concerns regarding the definitions of "new wells" and "existing wells". The commission agrees that these definitions should be consistent with the federal program; therefore, these definitions have been amended to conform to the federal regulations. However, the state regulations continue to retain a pro-

vision concerning wells authorized by rule. The provisions concerning authorization by rule have been amended to eliminate the use of the existing well so as not to conflict with the presently adopted definition of existing well.

Sierra Club expressed concern that the proposed definition of injection well could be interpreted to require a showing of active injection of waste before a well could be defined for regulatory purposes as an injection well. The commission concurs and the definition has been amended

Hunter Industrial Facilities, Inc., DuPont, and the Texas Chemical Council submitted comments regarding the definitions of non-commercial and commercial wells. The commission believes that the definitions as proposed require clarification; however, the commission disagrees with the language proposed by the commenters. The commission believes the reporting requirements pertaining to non-commercial wells can be less restrictive and still be protective of human health and the environment because the waste streams they receive are limited and more consistent than the waste streams received by commercial wells as defined in the amendments. The commission feels that wells which receive wastes generated at other locations should be considered commercial wells and should be required to meet the more restrictive standards as the waste streams may vary greatly in nature. For similar reasons, the commission disagrees with the definition of "on-site" which was urged in comments submitted by DuPont.

The commission agrees with comments submitted by the law firm of Brown Maroney & Oaks Hartline, DuPont, and Hunter regarding the definition of "containment interval". Because the commission is not adopting 40 Code of Federal Regulations (CFR) Part 148, this definition is unnecessary and will not be adopted. Brown Maroney & Oaks Hartline also questioned the inclusion of injection interval. This term is used in UIC permits and the commission believes that the definition reflects the commission's understanding of the term. Comments were submitted by Hunter concerning inconsistencies between the state and federal definitions. The commission has amended these definitions so as to more closely conform to the federal program in order to maintain primacy.

The Sierra Club expressed support for the proposed amendments which apply the revised regulations to all injection wells. A concern was expressed by the Sierra Club with regard to the use of the term underground source of drinking water (USDW), which conforms to the federal regulations, rather than fresh water as previously applied in the state rules. The commission agrees that the Injection Well Act, Texas Water Code, §27.057 (Vernon Supp 1988), requires that the terms and conditions of UIC permits protect fresh water. Therefore, the appropriate sections have been amended to include fresh water in addition to USDW as a consideration in order that both the state and federal criteria will be met.

• 31 TAC §§331.2, 331.8-331.10

The amendments are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission

(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 the TWC to adopt rules and procedures reasonably required for the performance of its powers, and duties under Chapter 27.

§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 both on-site and off-site.

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

Cone of influence—Is the potentiometric surface 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 or freshwater aquifer.

Existing injection well—A Class I well which was authorized prior to August 25, 1988, 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 31 Texas Administrative Code (TAC) §335.1.

Fluid—Material or substance which flows or moves whether in a semisolid, 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 the Code of Federal Regulations, Part 261. 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 in which the well is screened, or in which the waste is otherwise directly emplaced.

Injection well—A well into which fluids are being injected.

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.

Non-commercial facility—A Class I permittee which operates only non-commercial wells.

Non-commercial 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 itself is incapable of injecting fluids for mechanical reasons, loss of mechanical integrity, 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 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;

(2) for other Class I and for Class III wells, within two years from January 1, 1982.

§331.9. Injection Authorized by Rule.

(a) Injection into any Class I and Class III well or group of Class I and Class

III wells for which the commencement of construction began prior to January 1, 1982, is authorized by virtue of this rule, provided compliance with any permit issued before January 1, 1982, is maintained, provided compliance with the following rules of this chapter is achieved within one year from January 1, 1982, and provided mechanical integrity is demonstrated within two years from January 1, 1982, 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) 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, 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, 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) Authorization under subsections (a) and (b) of this section shall expire:

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

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

(f) 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) 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) 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, 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 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 June 14, 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 adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission (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.

§331.44. Corrective Action Standards.

(a) Corrective action standards for all wells. In determining the adequacy of corrective action proposed or required to prevent or correct pollution of Underground Sources of Drinking Waters (USDWs), and fresh or surface water, the following factors will be considered:

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

(7) abandonment procedures in effect at the time a well was abandoned;

(8) hydraulic connections with USDWs, and fresh or surface 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 USDWs or freshwater aquifers.

(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, plugged, 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 USDWs or freshwater aquifers. 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, 1988, 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 Definitions) 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 be sufficient to drive fluids into or between USDWs or freshwater aquifers 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 USDW or 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) logging and testing program data on the well;

(C) a demonstration of mechanical integrity;

(D) anticipated maximum pressure and flow rate at which the permittee will operate;

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

(F) the injection procedure;

(G) 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;

(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) 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) For Class I wells, 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) For Class I wells, prior to well closure the well shall be flushed with a non-hazardous buffer fluid.

(d) 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 USDWs or freshwater aquifers.

(e) 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 days before commencement. The executive director will review any revised, updated, or additional plugging and abandonment plans.

(f) 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;

(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) 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) 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) 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;

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

(k) For Class I wells only, 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, within 60 days after approval by the executive director of the plugging and abandonment operations, a notation on the deed to the facility property or on some other instrument which is normally examined during title search that will, in perpetuity, 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) 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 (for Class III and Class V wells only)

(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 to the extent that the less stringent requirements will not result in an increased likelihood of movement of fluid that may pollute USDWs, and fresh or surface 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 to the extent that the less stringent requirements will not result in an increased likelihood of movement of fluid that may pollute USDWs, and fresh or surface water.

(c) (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.

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Jim Haley
Director, Legal Division
Texas Water Commission

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◆ ◆ ◆ Subchapter D. Standards for Class I Wells

• 31 TAC §§331.62-331.68

The amendments and new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission (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 the TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27.

§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) Casing and cementing for new wells only. All Class I wells shall be cased and all casings which extend to the surface shall be cemented to the surface to prevent the movement of fluids into or between underground sources of drinking waters (USDW) or 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 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 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, as determined by the executive director, which extends into the confining bed below the lowest formation containing a USDW or freshwater aquifer. 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 or freshwater aquifer;

(2) depth to the injection zone;

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

(4) hole size;

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

(8) lithology of injection and confining intervals;

(9) types and grades of cement, and

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

(c) 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;

(6) size of casing;

(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) 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, natural gamma, and caliper logs before the casing is installed; and

(ii) cement bond with variable density log, and temperature logs after casing is set and cemented;

(C) for intermediate and long string casing:

(i) spontaneous potential, 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, casing inspection, and temperature logs after casing is set and cemented, and an inclination survey;

(D) a mechanical integrity test consisting of:

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

(ii) a temperature or noise log;

(iii) a casing inspection log, if required by the executive director; and

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

(2) Pressure tests. Surface casing shall be pressure tested to 1,000 psig for 30 minutes, and long string casing shall be tested to 1,500 psig for 30 minutes unless otherwise specified by the executive director.

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

(6) The executive director shall have the opportunity to witness all logging and testing by this subchapter. The owner or operator shall submit a schedule of such activities to the executive director at least 30 days prior to conducting the first test.

(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 shall not be 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 well-head 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 or propagate existing fractures in the confining zone, or cause movement of fluid out of the injection zone that may pollute (USDWs), and fresh or surface water.

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

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

(f) 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) 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, recompletions, or unseating of the packer.

(i) For workovers or testing operations on hazardous waste disposal wells, all hazardous fluids shall be flushed from the wellbore with a non-hazardous fluid before conducting any portion of the operations which would result in the exposure of the hazardous wastes to the environment or the public.

(j) An owner or operator of a Class I well who ceases injection operations 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 USDWs, and fresh or surface water 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 used, 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. The owner or operator shall also install and use:

(1) automatic alarm and automatic shutoff systems, designed to sound and shut-in the well when pressures and flow rates or other parameters approved by the executive director exceed a range and/or gradient specified in the permit; or

(2) automatic alarms designed to sound when the pressures and flow rates or other parameters approved by the executive director exceed a rate and/or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on location and able to immediately respond to alarms at all times when the well is operating.

(d) Mechanical integrity must be demonstrated within 12-month intervals, or within extended intervals not to exceed 15 months upon approval of the executive director, during the operating 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 (USDWs), and fresh or surface 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 a surveyor's plat showing the exact location and giving the latitude and longitude of the well. The report will also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the well, the well permit number, and its permitted waste streams. 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.

(2) Well data report. Within 90 days after the completion of the well, the permittee shall submit to the executive director a Well Data Report on forms provided by the executive director.

(3) Local authorities. The permittee shall provide written notice to the executive director in a manner specified by the executive director that a copy of the permit has been properly filed with the health and pollution control authorities of the county, city and town where the well is located.

(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 pre-operation 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 operating parameters specified in the permit.

(b) Operating Reports.

(1) Injection operation quarterly report. For non-commercial facilities only, 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 CFR 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 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) chemical and physical characteristics 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 but not limited to time of injection, injection rate, injection pressures, 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. These forms will comply with the reporting requirements of 40 CFR 146.69(a). The executive director may require more frequent reporting.

(3) Injection zone annual report. For all facilities, 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(g) of this title (relating to Monitoring Requirements). 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;

(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; and

(C) For non-commercial facilities only, a current injection fluid analysis.

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

(A) periodic tests of mechanical integrity; and,

(B) any other test of the injection well or injection zone if required by the executive director.

(5) 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 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) Bottom hole pressure report. During major workovers, the bottom hole pressure shall be determined either by direct measurement by conventional techniques or by calculation using specific gravity of fluid in the wellbore and the static fluid level.

§331.66. Additional Requirements and Conditions.

(a) A permit for a Class I well shall include expressly or by reference the following conditions:

(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 USDWs, and fresh or surface 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.

(b) Permit requirements for owners or operators of disposal wells which inject wastes which have the potential to react with the injection formation to generate gases shall include:

(1) conditions limiting the temperature, pH or acidity of the injected wastes; and

(2) procedures necessary to assure that pressure imbalances which might cause a backflow or blowout do not occur.

§331.67. Record-Keeping Requirements.

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

(1) All monitoring required by the permit, including;

(A) continuous records of surface injection pressures,

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

(C) continuous records of injection flow rates,

(D) monthly total volume of injected fluids.

(2) All periodic well tests, including but not limited to;

(A) injection fluid analyses,

(B) bottom hole pressure determinations,

(C) mechanical integrity, and

(D) casing inspection surveys.

(3) All shut-in periods and times that emergency measures were used for handling injection fluid.

(4) Any additional information on conditions that might reasonably affect the operation of the injection well.

(b) All records shall be made available for review upon request from a representative of the commission.

(c) The permittee shall retain, for a period of five years following abandonment, records of all information resulting from any monitoring activities, including the chemical and physical characteristics 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 or freshwater aquifer;

(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 §305 Subchapter D.

(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 or freshwater aquifer. The executive director may extend the period of post-closure monitoring if he determines that the well may endanger a USDW or freshwater aquifer.

(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.

(5) Retain for a period of five 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 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 June 14, 1989.

TRD-8905221

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: July 5, 1989

Proposal publication date: April 21, 1989

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

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• 31 TAC §331.121

The amendment is adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission (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 the TWC to adopt rules and procedures reasonably required for the performance of its powers, and duties under Chapter 27.

§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 all wells within the area of review which penetrate 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;

(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) maps and cross-sections indicating the general vertical and lateral limits of Underground Sources of Drinking Waters (USDWs) and freshwater aquifers, their positions relative to the injection formation and the direction of water movement, where known, in each USDW or freshwater aquifer which may be affected by the proposed injection;

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

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

(G) proposed operating data:

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

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

(I) proposed stimulation program;

(J) proposed operation and injection procedures;

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

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

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

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

(3) (No change.)

(4) the plugging and abandonment plan, corrective action plan, and post-closure 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;

(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) that any permit issued for a Class I injection well for disposal of wastes generated on-site requires 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 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 containing within 1/4 mile of the wellbore a USDW or freshwater aquifer.

(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 analytical and numerical 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 or freshwater aquifers;

(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 or freshwater aquifer; 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 or freshwater aquifer by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW or freshwater aquifer 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 or freshwater aquifer, considering density effects, injection pressures, and any significant pumping in the overlying USDW or freshwater aquifer; or

(C) there is no USDW or freshwater aquifer present;

(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, and fresh or surface water.

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 June 14, 1989.

TRD-8905222

Jim Haley
Director, Legal Division
Texas Water Commission

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE -
Part I. Texas Department of Human Services

Chapter 35. Pharmacy Services
Subchapter U. Support Documents

The Texas Department of Human Services (DHS) adopts the repeal of §35.9001 and new §35.9001, concerning reimbursement methodology for the pharmacy dispensing fee, in its Pharmacy Services chapter. The repeal and new section are adopted with changes to the proposed text as published in the January 3, 1989, issue of the *Texas Register* (14 TexReg 44)

The repeal and new section are justified to establish a more structured pharmacy cost-finding procedure and methods, resulting in informed decisions in setting the dispensing fee paid to pharmacies.

The repeal and new section will function by revising the existing vendor drug reimbursement methodology to incorporate recommendations from the Ad Hoc Advisory Committee on Dispensing Fee Methodology. This committee worked with department staff to develop a more understandable and equitable system of determining an appropriate dispensing fee for vendor drug providers.

The department received comments from two commenters: the Baptist Memorial Hospital System and the Texas Pharmaceutical Association.

One comment concerning §35.9001(a)(2) suggests that the use of a statewide median and the adjusting and allocating of expense data are unfair to providers because of the differences in the characteristics of communities.

The department disagrees with this comment.

Although the department recognizes that differences in expenses do exist, the use of a statewide median to determine the dispensing expense is considered the fairest possible method. Historically, the department has based adjustments and allocations on data gathered, so this method does not represent a change from prior methodology.

A comment concerning §35.9001(b)(3)(C), (D), and (E) pertains to the department's right to access and to audit provider information.

No changes have been made to §35.9001(b)(3)(C), (D), or (E), and the department disagrees with the commenter's suggestions that the department either limit its access to provider records or provide additional notice of audits or review. The department's right to review, and its method for reviewing cost report information, are consistent with its reviews of other types of provider records.

One commenter objected to the department's requirement that cost report information be notarized.

The department disagrees with the objection. A notarized cost report protects both the provider and the department from the possible use of inaccurate or falsified data submitted by an unauthorized source.

The other commenter suggested that the allocation for employee pharmacists should not be based solely on the ratio of prescription sales to total sales. The commenter's position was that the employee pharmacist is hired to work in the prescription department and that pharmacy practice laws require that a pharmacist be on duty at all times when the prescription department is open. The commenter suggested that, since the Texas Department of Human Services apparently does not believe that employee pharmacists' salaries should be allocated 100% to the prescription department, a compromise position which considers the time actually spent in the prescription department might be used.

The department is agreeable to a compromise using time spent in the prescription department. The department has changed §35.9001(f)(4)(C) to reflect this allocation compromise. The change improves, for future cost reporting, the method for capturing time spent in the prescription department.

A comment was received concerning §35.9001(f)(5)(C)(i) and the incentive allowed for no-charge delivery. The commenter wanted to ensure that actual reported delivery expenses were guaranteed and expressed the hope that the board might approve an incentive above that amount.

The department disagrees with this comment. The department intends that the incentive encourage delivery, and every attempt will be made to provide an incentive that reflects delivery expenses. However, it is not the department's intention to guarantee providers a particular amount of money per prescription for delivery if to do so would jeopardize the department's

ability to provide needed vendor drug services to recipients. Section 35.9001(f)(5)(C)(i) is therefore clarified concerning documentation that no-charge delivery is actually offered and provided. By limiting the incentive payment only to appropriate providers, the department hopes to be able to pay a larger incentive to those providers.

The department has made a minor editorial change in §35.9001(f)(5)(C) to clarify intent.

• 40 TAC §35.9001

The repeal 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.

§35.9001. Reimbursement Methodology for the Pharmacy Dispensing Fee.

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 June 13, 1989.

TRD-8905198 Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 15, 1989

Proposal publication date: January 3, 1989

For further information, please call: (512) 450-3765.

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The new section 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.

§35.9001. Reimbursement Methodology for the Pharmacy Dispensing Fee.

(a) Introduction.

(1) The Texas Department of Human Services (TDHS) reimburses contracted Medicaid pharmacy providers on a cost-related basis for prescription dispensing services and drug products provided to Medicaid recipients. This reimbursement is accomplished through assignment of a dispensing fee for each prescription. The department determines the dispensing fee after analyzing statewide financial and demographic information about the total cost of dispensing prescriptions.

(2) The methodology for determining the dispensing fee is based on the projected statewide median dispensing expense and a predetermined formula that provides an opportunity for profit on each prescription. The department determines the median dispensing expense by applying the cost-finding methodology; the Texas Board of Human Services determines the opportunity for profit. Using the cost-finding methodology, the department gath-

ers financial and demographic information from pharmacy providers in a consistent manner. As a part of the cost-finding process, the department adjust and allocates expense data to yield reasonable and reliable dispensing expenses from each provider. These dispensing expenses are projected from the various provider reporting periods to a future dispensing fee period. The department then determines a projected dispensing expense per prescription for each provider.

(b) Cost reports. The department obtains from annual cost reports financial and demographic information that reflects the operations of pharmacy providers in dispensing prescriptions. The department prescribes the format and content of the annual cost report. Providers must base the annual cost report on the accrual method of accounting except for governmental entities that operate on a cash basis.

(1) Number of cost reports required each year for determining dispensing expense cost-finding determination. To ensure statistical validity in cost-finding and dispensing expense determination, the department requires a sufficient number of cost reports each year. Hospital pharmacies, dispensing physicians, or pharmacies that dispense a low volume of Medicaid prescriptions are not required to submit cost reports.

(2) Providers required to file cost reports. If a provider dispenses an average of at least 200 Medicaid prescriptions per month during the base period, he must file a cost report each year. The base period is the previous 12-month period that ends three months before the end of the provider's fiscal year. The department may also select an additional random sample of providers who fill less than an average of 200 Medicaid prescriptions per month. The department performs the necessary analysis and mails the cost report to those providers selected for completing the documentation.

(3) On-site cost report audits.

(A) Number of on-site cost report audits performed. The department performs a sufficient number of on-site audits each year to ensure the fiscal integrity of the Texas Medicaid Pharmacy Program. The number of on-site audits performed each year may vary. The department arranges on-site audits to maximize the number of on-site audited cost reports available for use in cost report projections.

(B) On-site audit standards. The department performs on-site cost report audits in a manner consistent with generally accepted auditing standards (GAAS) approved by the American Institute of Certified Public Accountants and included in the Standards for Audit of Governmental Organization, Programs, Activities and Functions, issued by the United States Comptroller General.

(C) Access to records. Each provider entity or its designated agent(s) must allow access to all records necessary to verify information submitted to the department on Medicaid cost reports. This requirement includes records pertaining to related-party transactions and other business activities engaged in by the provider. If a provider does not allow inspection of pertinent records within 30 days following written notice from the department, the provider may be subject to the penalties specified in §35.110 of this title (relating to Reason for Placing a Pharmacy on Vendor Hold). If a central office or other entity pertaining to a multipharmacy operation refuses access to records, then the penalty may be extended to all related parties having Medicaid contracts with the department.

(D) Use of on-site cost report audits. It is the general policy of the department to include in the dispensing cost base the maximum number of on-site audited cost report findings that is reasonably possible. Before the final dispensing fee analysis and until closure, the department makes adjustments to the dispensing cost base that are consistent with the results of on-site audits of cost reports.

(E) Reviews of cost report disallowances. A provider who disagrees with disallowances of the items in a cost report and wishes to appeal them is entitled to a review with department staff according to the procedures in this subparagraph. Within 15 calendar days of notification of the disallowances by the department's audit division, the provider must contact the Economic Analysis Division and request a review. At the earliest possible date that is convenient for all parties concerned, Economic Analysis Division staff arrange a review at which the provider may present all pertinent information supporting his disagreement with any disallowances in question.

(4) Notice to provider to file a cost report. Providers required or selected to file a cost report generally are notified to file at least three months before the cost report due date. Notice is considered made the date of delivery to the United States Postal Service.

(5) Extension of due date. The department may grant extensions of due dates for good cause. A good cause is one which the provider could not reasonably be expected to control. Providers must submit written requests for extensions to the department before the cost report due date.

(6) Recordkeeping requirements. Each provider must maintain records according to the requirements specified in §69.202 of this title (relating to Contractors' Records). Providers must ensure that records are accurate and sufficiently detailed

to support the legal, financial, and other statistical information contained in the cost report. Failure to maintain records according to department procedures may result in noncompliance. In the case of noncompliance, the provider may be subject to the penalties specified in §35.110 of this title (relating to Reason for Placing a Pharmacy on Vendor Hold). If the provider fails to correct the deficiencies within 90 days from the notification date, the department may cancel the provider's contract.

(7) Failure to file an acceptable cost report. If a provider fails to file a cost report or files an unacceptable report and refuses to supply the department with the required information, the provider may be subject to the penalties specified in §35.110 of this title (relating to Reason for Placing a Pharmacy on Vendor Hold) until the deficiencies are corrected.

(8) Cost report certification. Providers must sign and have notarized a cost report certification page provided with the cost report. This page certifies that the individual legally responsible for the conduct of the contracted pharmacy has submitted accurate dispensing cost data in the format prescribed by the department.

(9) Demographic information required of each provider.

(A) When requested, the provider must notify the department of the fiscal year he uses for federal income tax purposes. The provider must notify the department immediately when it changes its fiscal year.

(B) The provider must furnish other operational information that the department determines is relevant to the cost-finding and expense determination process.

(C) For the purposes of this section, the term "pharmacy" is defined as the entire store, including prescription and other departments, unless a pharmacy is part of a large supermarket or department store. In this case, the pharmacy is defined as that portion of the store that includes the following departments: prescription, over-the-counter drug, and durable medical equipment.

(c) Allowable costs. Generally, reasonable expenses incurred in the legal and normal conduct of business affairs are considered to be allowable costs. Cost reporting by department Medicaid-contracted providers should be consistent with generally accepted accounting principles (GAAP). In cases where department cost reporting rules conflict with GAAP, Internal Revenue Service, or other authorities, department rules take precedence for Medicaid provider cost reporting purposes. In this section, it is assumed that each transaction occurs at

arm's length in a free and open market between a willing buyer and a willing seller with each seeking to maximize income. Exceptions are described in subsection (d) of this section. When incurred costs involve more than pharmacy operations, allocation methods used by the provider in reporting costs for the pharmacy operations in the cost report must be reasonable. Expenses based on methods the department considers unreasonable are adjusted.

(d) Unallowable costs. The following list is not intended to include all possible unallowable costs. It is intended, however, to be a general guide to unallowable costs that may not be considered in the cost-finding process and that may be adjusted by the department in the cost-finding process.

(1) compensation in the form of salaries, benefits, or any form of perquisite provided to owners, partners, officers, directors, stockholders, employees, or others, any of whom do not provide pharmacy-related services. For owner pharmacists who work in the pharmacy, benefits that are not provided to other employees are subject to a reasonableness test on an individual basis. These benefits may include life and health insurance premiums;

(2) personal expenses not directly related to the provision of services or the dispensing of prescriptions;

(3) Forms of compensation that are not clearly enumerated to the dollar amount. Bonuses based on profit that are paid to owners, partners, officers, directors, and stockholders are unallowable unless it can be documented that this form of bonus is available to other employees. In the case of a pharmacy or prescription department manager who is an employee of the pharmacy and who receives a bonus as a part of his compensation, this is an allowable cost;

(4) management fees paid to an organization that are not clearly derived from the actual cost of materials, supplies, or services provided directly to an individual pharmacy;

(5) advertising expenses, except allowable expenses for yellow pages advertising, ads for employee recruitment, and advertising to meet any statutory or regulatory requirement;

(6) business expenses not directly related to the pharmacy operations or to prescription dispensing. This includes business investment activities and stockholder and public relations activities. Public relations activities reflecting pharmacy services or health/medication information, including health-related educational pamphlets, are allowable;

(7) political contributions;

(8) depreciation and amortization of unallowable items. This includes amounts exceeding those resulting from

generally accepted depreciation methods, capitalized lease expenses exceeding actual lease payments, and good will or any excess above the actual value of physical assets at the time of purchase;

(9) trade discounts of all types. A trade discount is a reduction in selling price for selected individuals or groups and is not a cost of dispensing prescriptions. These discounts are accounted for in the net sales section of the financial summary of the cost report;

(10) donated buildings, materials, supplies, and services to the pharmacy;

(11) dues to all types of political and social organizations and to professional associations not directly and primarily concerned with the pharmacy operations or prescription dispensing. This includes country clubs, private clubs, social clubs, and service clubs;

(12) entertainment expenses except those incurred for entertainment provided to the employees of the pharmacy as a benefit;

(13) corporation or association board of directors fees, limited partnership filing fees, and corporation filing fees;

(14) fines and penalties for violations of regulations, statutes, and ordinances of all types;

(15) interest expenses on loans pertaining to unallowable items and on that portion of interest paid that is reduced or offset by interest income;

(16) insurance premiums pertaining to unallowable cost items;

(17) accrued expenses that are not legal obligations of the provider entity or are not clearly enumerated to the dollar amount. This includes any form of profit sharing and the accrued liabilities of deferred compensation plans;

(18) motor vehicles not generally suited or not commonly used for delivering prescriptions. This includes motor homes and recreational vehicles, sports and luxury automobiles, and large trucks. Standard size or mini-vans that are used to deliver prescriptions or durable medical equipment may be considered acceptable delivery vehicles and allowable on an individual basis;

(19) values assigned to the services of unpaid workers and volunteers;

(20) returns, allowances, and refunds. These adjustments are accounted for in the net sales and cost of goods information of the financial summary of the cost report;

(21) costs of purchases from a related party that exceed the original cost to the related party.

(A) Related to the provider means that the provider, to a significant

extent, is associated or affiliated with, has control of, or is controlled by the organization furnishing the services, facilities, or supplies.

(B) Common ownership exists when an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider.

(C) Control exists when an individual or an organization has the power, directly or indirectly, to influence significantly or direct the actions or policies of an organization or institution.

(22) legal and other costs associated with litigation between a provider and state or federal agencies that relates to pharmacy activities, unless the litigation is decided in the provider's favor;

(23) contributions to self-insurance funds that do not represent payments based on current liabilities;

(24) any expense incurred because of imprudent business practices. The prudent and cost-conscious buyer not only refuses to pay more than the going price for an item or service, he also seeks to economize by minimizing the cost. The department may exclude excess costs in determining allowable costs in those instances where the department has determined that no clear justification for the premium payment exists;

(25) expenses that cannot be documented;

(26) any expense not allowable under other pertinent federal, state, or local laws and regulations;

(27) travel, except expenses for transportation, meals, lodging, and registration fees to attend seminars in the United States that provide curricula directly related to drug therapy and usage and that improve the skills in the practice of pharmacy;

(28) vacation expenses, except bona fide employee benefits;

(29) allowances for bad debts. This is not considered a cost of operations, but rather a reduction in potential revenues. These allowances are deducted from the income/loss amounts of the financial summary page;

(30) tax expense for federal, state, or local income taxes. These amounts are deducted from the net income/loss figure on the financial summary page. FICA taxes are considered an allowable expense and should be reported on the cost report in the appropriate section. Sales tax is unallowable.

(e) Projected expenses. The department projects allowable, reported expenses to the dispensing fee year using inflation factors appropriate for each expense item.

Inflation factor data are obtained from the United States Bureau of Labor Statistics and other recognized sources, such as the Department of Commerce.

(f) Dispensing fee determination methodology.

(1) Prospective determination. The department prospectively determines the dispensing expenses and fee.

(2) Dispensing fee period. The dispensing fee period is the calendar year, January 1–December 31. The department applies the cost-finding process at least annually unless the Texas Board of Human Services decides otherwise.

(3) Exclusion of and adjustments to certain reported expenses. Providers must eliminate unallowable expenses from the cost report.

(A) The department excludes from the dispensing cost base any unallowable expenses included in the cost report and makes adjustments to expenses reported by providers to ensure that the dispensing cost base reflects costs that:

(i) are reasonable and necessary for prescription dispensing;

(ii) represent economic and efficient use of resources; and

(iii) are consistent with federal and state regulations.

(B) The department may exclude from the dispensing cost base whole cost reports for the following reasons.

(i) The cost report is the basis for a fraud referral to the Office of the Attorney General.

(ii) Audit staff of the department's Office of the Inspector General recommend exclusion.

(C) The department excludes allowable transportation-related costs from the dispensing cost base to calculate the dispensing expense. The allowable transportation costs are used in determining the incentive described in paragraph (5)(C)(i) of this subsection.

(4) Basic dispensing expense.

(A) Cost reports with data reflecting a partial year of operational data are normalized to a full-year basis.

(B) When owner pharmacist draw is not reported for sole owner or partnership pharmacy operations, the department imputes a value for the owners who are pharmacists and work in the prescription department as their primary function. The imputed value is determined as the 75th percentile value from the array of

pharmacy/prescription department manager reported salaries or the 75th percentile of the reported employee pharmacist salary array, whichever is higher. The imputed value used for a specific cost report in the cost-finding process is the lower of the selected 75th percentile or reported net profit before taxes. All reported salaries representing a single individual are capped at the 75th percentile imputed value for purposes of dispensing expense determination.

(C) Allowable reported pharmacy costs are allocated to the prescription department. The department determines the projected allowable expense by taking allowable costs associated with prescription dispensing and projecting these expenses to the dispensing fee year, using estimated inflation factors appropriate for each expense item. The department determines the projected allowable expense per prescription in each cost area by dividing the calculated allowable expense by the total number of prescriptions dispensed during the reporting period for that pharmacy. The department determines the projected statewide uniform dispensing expense at the median point in the array of adjusted, projected allowable dispensing expense for the pharmacies. The statewide dispensing expense is the sum of the median expenses for each cost center. Salary allocations to the prescription department for calculation of the dispensing expense will be made as follows.

(i) Owner-pharmacist salaries will be allocated based on the percentage of prescription sales to total sales. The amount of time spent in the prescription department will also be considered when other pharmacists are employed.

(ii) Employee pharmacist salaries will be allocated based on the percentage of time spent working in the prescription department.

(iii) Nonpharmacist employees' wages will be allocated based upon the percentage of prescription sales to total pharmacy sales.

(5) Dispensing fee.

(A) Opportunity for profit. The Board of Human Services determines an opportunity for profit, above and beyond the projected median cost of dispensing a Medicaid prescription.

(B) Method for determining the total transaction costs for each prescription. The department determines the total cost to the provider for each transaction by adding the determined statewide dispensing expense to the estimated acquisition cost (EAC) of the drug product as defined by the department.

(C) Dispensing fee for each prescription. When determining the dispens-

ing fee for each prescription transaction, the department divides the total transaction by a factor that yields a consistent opportunity for profit and reduces the result by the EAC. The department does not intend that the methodology limit the actual profit of a particular provider.

(i) Providers offering and providing no-charge prescription delivery service to all Medicaid recipients requesting the service. An incentive, paid on each prescription transaction, may be allowed for providers who offer and provide no-charge prescription delivery services to the same extent as to the general public. The amount of this incentive utilizes the reported allowable transportation costs from the cost reports and is determined by the Texas Board of Human Services. Department staff periodically conduct on-site verification of no-charge delivery services. Documentation of expenses incurred for delivery may be required as part of on-site verification. Providers must notify the department within 30 days of the date no-charge delivery services are added or deleted. An overpayment to a provider resulting from failure to report deletion of delivery services is recouped beginning with the 31st day after deletion of the service.

(ii) Recoupment and appeals. The department recoups overpayments to providers resulting from the use of incorrect assigned fees. Appeals are resolved according to established procedures of the department.

(iii) Exceptions to standard dispensing fees. Hospital pharmacies and dispensing physicians are assigned a dispensing expense determined by multiplying the statewide median dispensing expense by 0.5. The total transaction cost and the dispensing fee determinations are calculated as indicated in this subsection. Hospital pharmacies and dispensing physicians are not eligible for the incentive paid for no-charge delivery.

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 June 13, 1989.

TRD-8905199

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 15, 1989

Proposal publication date: January 3, 1989

For further information, please call: (512) 450-3765.



Chapter 41. Utilization Review Waiver for Utilization Review Procedures

• 40 TAC §41.104

The Texas Department of Human Services (DHS) adopts new §41.104 with changes to the proposed text as published in the January 20, 1989, issue of the *Texas Register* (14 TexReg 449).

The new section is necessary to identify the elements considered in conducting inpatient hospital utilization review, which is a federally mandated function of DHS.

New §41.104 will function by clearly defining elements considered in conducting utilization review.

DHS received comments on the proposed section from the Texas Medical Association (TMA). The following is the TMA recommendation and DHS response. Recommendation: we recommend that the TDHS Medicaid TMRP review process utilize the Medicare interpretation of DRG validation and follow the rules as stated in §41.104(a)(2) which bases the substantial determination on the DRG grouper software. The DRG grouper for Medicaid is the same for Medicare. DHS response: the DHS Medicaid TMRP review process does utilize grouper software; however, §41.104(a)(2) has been changed to clearly define the terms "substantial complication" and "substantial comorbidity," which should resolve questions regarding the coding of these critical elements.

The new section 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.

§41.104. TMRP Review Process.

(a) For all Medicaid admissions identified for review, the TMRP review process consists of the following three major components:

(1) admission review, which is a determination of the medical necessity of the admission;

(2) DRG validation, which consists of a determination that the critical elements necessary to assign a DRG are present in the medical record. Those elements are age, sex, discharge status, principal diagnosis, principal procedures, and any substantial complication or substantial comorbidities. This process is also a determination that the principal and secondary diagnoses and procedures are sequenced correctly. For the purpose of coding these elements, a substantial complication is a condition that arises during the hospital stay that prolongs the length of stay by at least one day over the DRG mean length of stay or requires the use of additional resources. A substantial comorbidity is a pre-existing condition that prolongs the length of stay by at least one day over the DRG mean length of stay or requires the use of additional resources. When it is determined that a

substantial complication or comorbidity exists, the information will be entered into the grouper software for DRG determination. The HCFA approved DRG grouper software considers each secondary diagnosis and the combination of all codes and makes a determination of the final DRG assignment.

(3) quality of care review, which is an assessment of the quality of care provided to determine if it meets gen-

erally accepted standards of medical and hospital care practices or puts the patient at risk of unnecessary injury, disease, or death. Quality of care review includes the use of discharge screens and generic quality screens.

(b) DHS or its contractor reviews the complete medical record to make decisions concerning the medical necessity of the admission, DRG validation, and quality of care.

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 June 13, 1989.

TRD-8905200

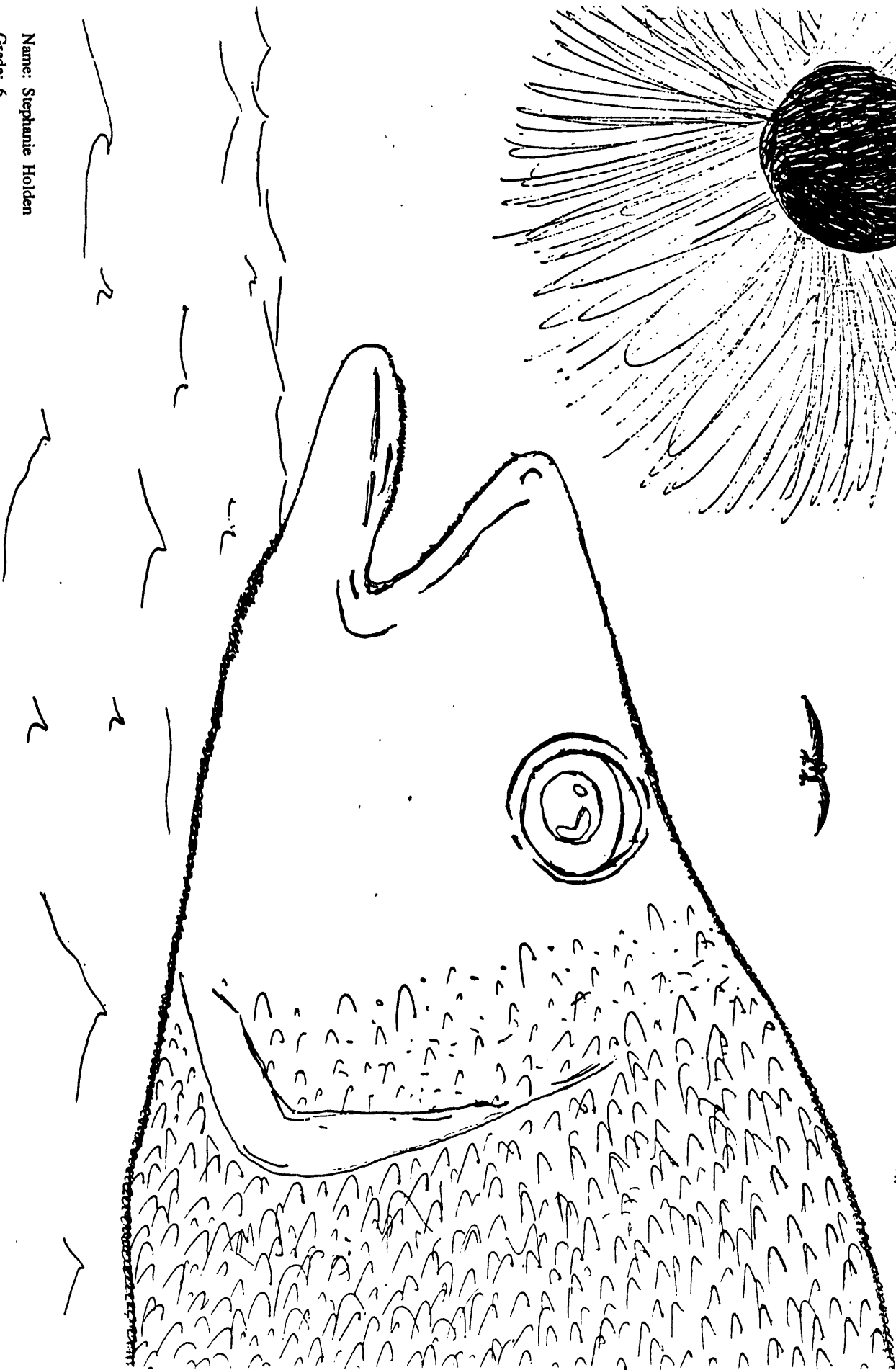
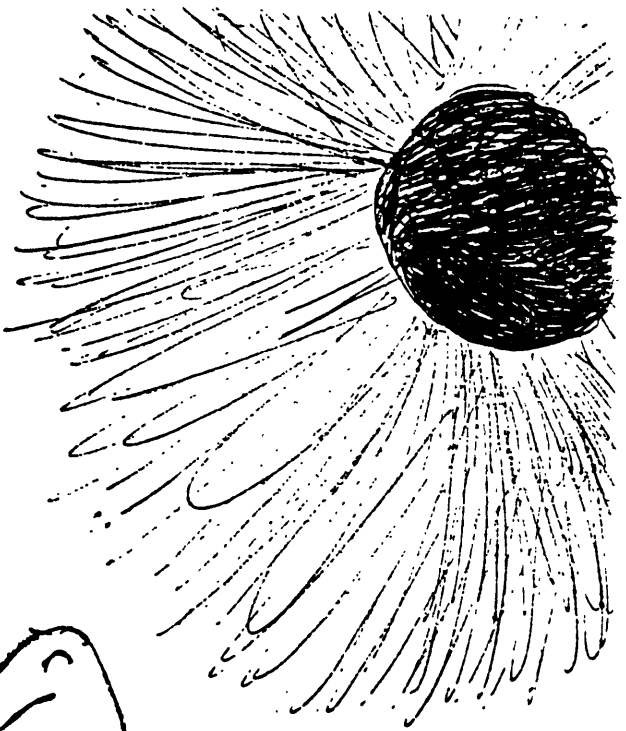
Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 11, 1989

Proposal publication date: January 20, 1989

For further information, please call: (512)
450-3765.





Name: Stephanie Holden

Grade: 6

School: H.B. Zachry Middle School, Northside

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 Alcoholic Beverage Commission

Monday, June 26, 1989, 10:30 a.m. The commission will meet at Room 329, Jefferson Building, 1600 West 38th Street, Austin. The commission will approve minutes of April 24, 1989 meeting; administrator's and staffs' report of agency activity; approve affidavits of destruction of tested alcoholic beverages.

Contact: W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: June 13, 1989, 1:40 p.m.

TRD-8905196

Texas Commission on the Arts

Tuesday, June 20, 1989, 10 a.m. The Legislative Committee of the Texas Commission on the Arts will meet in emergency session in the Capitol Ballroom, Salon A, Radisson Plaza, 700 San Jacinto, Austin. According to the agenda, the committee will hold public hearings; legislative update concerning appropriation status, bill status, and other business. The committee will also meet in executive session. The emergency status was necessary because approval was just received by commissioners to have meeting.

Contact: Betty J. Brown, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: June 13, 1989, 3:10 p.m.

TRD-8905208

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Thursday, June 22, 1989, 10 a.m. The Pricing Subcommittee of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in Room 300A, Central

Services Building, 1711 San Jacinto, Austin. According to the agenda summary, the subcommittee will accept minutes from March 21, 1989 meeting; discuss and recommend for action: new services; renewal services; Centex Training Center's rest area maintenance contract; contracts with six months provisional approval; technical enhancement services; new products; and product changes and revisions.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: June 13, 1989, 2:45 p.m.

TRD-8995203

Friday, June 30, 1989, 8 a.m. The Budget Subcommittee of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in Room 5502, Fifth Floor, Brown-Healy Building, 4900 North Lamar Boulevard, Austin. According to the agenda, the subcommittee will review and approve of budget approval process and review and discuss budget subcommittee responsibilities.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: June 13, 1989, 2:45 p.m.

TRD-8995202

Texas Commission for the Deaf

Thursday, June 22, 1989, 4:30 p.m. The Rules and Regulations Subcommittee will meet at Clarion Hotel, 1241 West Mockingbird Lane, Dallas. According to the agenda, the subcommittee will discuss rules pertaining to TCD operations and other state agencies MOUs.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas (512) 469-9891.

Filed: June 14, 1989, 3:14 p.m.

TRD-8905247

Thursday, June 22, 1989, 7 p.m. The

Board of Commissioners will meet at Clarion Hotel, 1241 West Mockingbird Lane, Dallas. According to the agenda, the board will approve minutes; consider business requiring board action; BEI subcommittee report; fiscal affairs subcommittee report; rules and regulations subcommittee report; MOU's; business for information purposes; direct services subcommittee report; update legislation; proposed 1990-91 budget for TCD; chairperson's report.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas (512) 469-9891.

Filed: June 14, 1989, 3:12 p.m.

TRD-8905248

Thursday, June 22, 1989, 4:30 p.m. The Direct Services Subcommittee will meet at Clarion Hotel, 1241 West Mockingbird Lane, Dallas. According to the agenda, the subcommittee will review progress of direct services.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas (512) 469-9891.

Filed: June 14, 1989, 3:14 p.m.

TRD-8905246

Thursday, June 22, 1989, 4:30 p.m. The Board for Evaluation of Interpreters Subcommittee will meet at Clarion Hotel, 1241 West Mockingbird Lane, Dallas. According to the agenda, the subcommittee will discuss BEI rules; recommendations of certification awards and revocation; and activities/progress or BEI budget.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas (512) 469-9891.

Filed: June 14, 1989, 3:15 p.m.

TRD-8905245

Thursday, June 22, 1989, 4:30 p.m. The Fiscal Affairs Subcommittee will meet at Clarion Hotel, 1241 West Mockingbird Lane, Dallas. According to the agenda, the subcommittee will discuss Texas Commission for the Deaf fiscal matters.

Contact: Larry D. Evans, 510 South Congress, Suite 300, Austin, Texas (512) 469-9891.

Filed: June 14, 1989, 3:14 p.m.

TRD-8905244

Texas Education Agency

Friday, June 23, 1989, 9 a.m. The Commission on Standards for the Teaching Profession Committee on Certification Programs and Requirements will meet at Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will discuss individual programs--University of North Texas, Endorsement Program--Gifted and Talented; Institutional Programs (1987 Standards)--East Texas Baptist University, Howard Payne University, Incarnate Word College, McMurry College, Pan American University-Edinburg, Texas Christian University, Texas Lutheran College, Texas Southern University, Huston Tillotson College, The University of Texas at Austin, Trinity University, University of Houston-Victoria, and Wayland Baptist University.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: June 13, 1989, 2:53 p.m.

TRD-8905207

Interagency Council for Genetic Services

Friday, June 23, 1989, 8:30 a.m. The TEXGENE Advisory Committee will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of previous meeting; introduce William Moore; consider quality assurance (update on HB 1146, the laboratory certification bill); education; date (report on examination of computer packages for data collection); genetic services interagency council report; sunset legislation; cost effectiveness survey; bylaws (conflict of interest); persons servicing on subcommittees; TEXGENE steering committee members serving as liaisons for subcommittee); funding reimbursement from grant and grant renewal process; proposal for education; specific meeting day for the year for meetings; old and new business requiring committee action.

Contact: Patti J. Patterson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7321.

Filed: June 13, 1989, 10:20 a.m.

TRD-8905193

Friday, June 23, 1989, 1 p.m. The council will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the council will hear public comments; ap-

prove minutes of previous meeting, and consider legislation; report from cost effectiveness subcommittee; introduction of William Moore; plan for addressing new legislative mandates; report on TEXGENE advisory committee meeting; review of presentations of needs assessment and genetic cost estimates for genetic services in Texas.

Contact: Patti J. Patterson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7321.

Filed: June 13, 1989, 10:20 a.m.

TRD-8905194

Texas Health and Human Services Coordinating Council

Thursday, June 15, 1989, 1:30 p.m. The Youth Committee held an emergency meeting in the Texas Education Board Room-Room 104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review and approve minutes; discuss levels of care project; old business; new business. The emergency status was necessary because completion of projects that require committee action.

Contact: Tom Olsen, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: June 13, 1989, 11:32 a.m.

TRD-8905190

Tuesday, June 20, 1989, 10 a.m. The Advisory Committee on Maternal and Infant Health will hold an emergency meeting in Old Texas Department of Health Board Room 610, 1100 West 49th Street, Austin. According to the agenda, the committee will approve minutes; update on teen pregnancy programs; update on medicaid activities; update on WIC eligibility guidelines; discuss objectives/goals for MIHIA; federal legislative update; state legislative update; discussion of committee bylaws; old business; new business. The emergency status was necessary because agenda was finalized.

Contact: Marguerite Rivera, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: June 13, 1989, 11:33 a.m.

TRD-8905191

Texas Housing Agency

Wednesday, June 21, 1989. The Texas Housing Agency will meet in Suite 300, THA Conference Room, 811 Barton Springs, Austin. Times and agendas follow.

10 a.m. The Planning and Legislative Committee will consider and possibly act on the

following items: approval of May 25, 1989 minutes; evaluation criteria for low income tax credit applications; 1989 allocation request chart; applications for the 1989 low income tax credit program; and requests for commitment extensions for 1989.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: June 13, 1989, 4:37 p.m.

TRD-8905214

1 p.m. The Board of Directors will consider and possibly act on the following items: May 24, 1989 board minutes; April 11 THA resolution dealing with THA advisory committee structure; board's committee structure; agency programs 39 and 40; modifications to personnel policy and procedures manual; board orientation; Housing Resource Center Resource Council; statewide study request for proposals; RFP to select consultant to analyze the restructure of agency's single family mortgage revenue bonds, 1984A series A and 1984 series B; tax credit recommendations; ratification of actions of Ad Hoc Tax Credit Review Committee; addition of Stewart's Appraisal Service of Houston; proposal for formation of an Ad Hoc Committee to evaluate and fulfill personnel needs; internal auditor and quality control positions; report concerning presentations by agency to rating agencies; and while in executive session-pending or potential litigation, and duties and compensation of employees.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: June 13, 1989, 4:37 p.m.

TRD-8905215

Board of Law Examiners

Thursday-Sunday, June 22-25, 1989, 8 a.m. daily The board will meet June 22 and 23 at Courtroom, Supreme Court of Texas, 200 West 14th Street, Austin, and June 24 and 25 at Embassy Suites Hotel, 300 South Congress Avenue, Austin. According to the agenda, the board will discuss minutes of April 1989 meeting; status of fiscal year '89 and proposed fiscal year '90 budget; board member compensation and office lease; policies regarding Reynaldo Garza School of Law; discuss regrade policy; questions of eligibility and special request; hearings on moral character and fitness; rule VII(i) formal reviews; discuss August '89 examination and prepare questions.

Contact: Wayne E. Denton, 510 S. Congress Avenue, Suite 116, Austin, Texas 78704 (512) 463-1621.

Filed: June 14, 1989, 12:52 p.m.

TRD-8905241

Interagency Council on Mentally Retarded, Developmentally Disabled and Mentally Ill Offenders

Friday, June 23, 1989, 10 a.m. The council will meet at Juvenile Probation Commission, 2015 South IH 35, Austin. According to the agenda summary, the council will approve the minutes from the last meeting; discuss the by-laws, review the long range plan; receive an overview of the Council legislation; hear a Pilot Project update, and discuss the standing committees structure.

Contact: Cher Roquemore, 2818 San Gabriel, Austin, Texas 78705, (512) 476-7044.

Filed: June 13, 1989, 2:37 p.m.

TRD-8905197

State Pension Review Board

Monday, June 26, 1989, 9 a.m. The State Pension Review Board will meet in Conference Room 403, Employees Retirement System Building, 18th and Brazos, Austin. According to the agenda, the board will discuss reading and adoption of minutes of previous meeting; executive director's report; discuss old business; report on 71st regular legislative session; discuss implementation of SB365; discuss timing and scope of actuarial studies; announcements and invitation for audience participation.

Contact: Lynda Baker, State Pension Review Board.

Filed: June 15, 1989, 9:57 a.m.

TRD-8905255

State Purchasing and General Services Commission

Wednesday, June 21, 1989, 9 a.m. The commission will meet in Conference Room-402, 1711 San Jacinto, Central Services Building, Austin. According to the agenda, the commission will consider authorizing publication in the Texas Register of proposed amendments to §113.14 concerning invoicing and payment procedures for spot purchases; consider request from Texas Department of Mental Health and Mental Retardation for delegation of purchasing authority; long range planning committee report; monthly operating budget report; monthly 3.09 report; monthly construction project report; 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.

Contact: John R. Neel, 1711 San Jacinto,

Austin, Texas 78701, (512) 463-3446.

Filed: June 13, 1989, 10:33 a.m.

TRD-8905192

Texas Rehabilitation Commission

Monday, June 26 1989, 9 a.m. The Advisory Board of Occupational Therapy will meet in Room 4502, 4900 North Lamar Boulevard, Austin. According to the agenda summary, the board will discuss approval of minutes; executive session; contested hearing; recess for committee meetings and lunch; report from application review committee; report from continuing education committee; office report.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 14, 1989, 9:46 a.m.

TRD-8905232

Monday, June 26, 1989, 1 p.m. The Application Review Committee of the Texas Advisory Board of Occupational Therapy will meet in Room 4502, 4900 North Lamar Boulevard, Austin. According to the agenda summary, the committee will review and discuss special requests.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 14, 1989, 9:46 a.m.

TRD-8905231

Monday, June 26, 1989, 1:30 p.m. The Continuing Education Committee of the Texas Advisory Board of Occupational Therapy will meet in Room 4502, 4900 North Lamar Boulevard, Austin. According to the agenda summary, the committee will review and discuss special requests.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 14, 1989, 9:46 a.m.

TRD-8905230

Texas County and District Retirement System

Friday, June 23, 1989, 9 a.m. The Board of Trustees will meet in Columbia Lakes Conference Center, 188 Freeman Boulevard, West Columbia. According to the agenda summary, the board will consider March 22, 1989 minutes of the regular board meeting; consider and pass on applications for service retirement benefits and disability retirement benefits; consider adoption of rules; consider independent auditors report; consider annual actuarial valuation; review and act on report from director,

actuary, and investment counsel; set date for September meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78702, (512) 476-6651.

Filed: June 14, 1989, 10:35 a.m.

TRD-8905235

Texas Department of Public Safety

Friday, June 23, 1989, 2:30 p.m. The Governor's Oil Spill Advisory Committee will meet in Commission Room, 5805 North Lamar Boulevard, Austin. According to the agenda, the committee will discuss organization of committee; review of executive order charge; review of current activities; establishment of subcommittees and assignments; other issues of concern by the committee.

Contact: Robert A. Lansford, 5805 North Lamar, Austin, Texas (512) 465-2138.

Filed: June 15, 1989, 9:46 a.m.

TRD-8905254

Texas State University System

Monday, June 19, 1989, 8 a.m. The Selection Advisory Committee met at Presidio Suite, Houston Intercontinental Marriott Hotel, Houston. According to the agenda, the committee will discuss any and all matters relating to the employment of a president for Sam Houston State University.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: June 14, 1989, 2:26 p.m.

TRD-8905242

Teacher Retirement System of Texas

Friday, June 23, 1989, 10 a.m. The Board of Trustees will meet in Board Room, 1001 Trinity, Austin. According to the agenda summary, the board will discuss approval of minutes; review investments for quarter ending May 31, 1989; review discussion and recommendations at IAC meeting; discuss economic outlook and market conditions; update of asset/liability study; consider appointments to investment advisory committee; report of building expansion construction project; report of audit committee; review of 1989 legislative session; report of member benefits division; report of general counsel concerning litigation; executive session to discuss personnel.

Contact: Mary Godzik, 1001 Trinity, Austin, Texas (512) 397-6400.

Filed: June 15, 1989, 9:37 a.m.

TRD-8905253

◆ ◆ ◆
**Texas State Treasury
Department**

Friday, June 23, 1989, 10 a.m. The Cash Management Committee will meet at Room 106, Reagan Building, 105 West 15th Street, Austin. According to the agenda, the commission will discuss whether to authorize the issuance, method of sale, and amount of the 1989 and 1990 Tax Revenue Anticipation Note issues pursuant to Chapter 404, Subchapter H, Texas Government Code.

Contact: Anne L. Schwartz, P.O. Box 12608, Austin, Texas 78711, (512) 463-5971.

Filed: June 13, 1989, 3:22 p.m.

TRD-8905212

◆ ◆ ◆
**Public Utility Commission of
Texas**

Thursday, June 22, 1989, 9 a.m. The Administrative Division will meet at Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider the following dockets: 8411, 8619, 8400, 8363, P8842, P8845, 7551, 2944, 6184, 6609, 8421, 8399, 8485, 8557, 8614, 8620, 8405, 8415, 8688, 8707, and 8791; and consider final adoption of §23.25 (long distance rate).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 14, 1989, 9:18 a.m.

TRD-8905249

Thursday, June 22, 1989, 2 p.m. The Administrative Division will meet at Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will discuss reports; discuss and act upon budget and fiscal matters; report on status of lease; PUC review process for utility imposition of bonded rates; NRRI research contract status report and NRRI database; federal acid rain legislation and possible letter to Texas Congressional Delegation; staff recommendation of auditor and expert witness to conduct prudence review of the Comanche Peak nuclear power plant; Section 42 proceeding; congressional nuclear decommissioning reserve fund act of 1989, H.R. 1317, and possible letter to Texas Congressional Delegation; presentation of management audit of Rio Grande Electric Cooperative Inc.; inward toll-free telephone number for receiving consumer complaints; consider litigation and personnel matters; reconvene for discussions and decisions considered in executive session; set time and place for next

meeting.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 14, 1989, 9:18 a.m.

TRD-8905250

Wednesday, June 28, 1989, 10 a.m. The Hearings Division will meet at Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will discuss a hearing on interim rates in Docket No. 8646 application of Central Power and Light Company for authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 14, 1989, 9:18 a.m.

TRD-8905233

Monday, September 18, 1989, 10 a.m. The Hearings Division will meet at Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will discuss a hearing on the merits in Docket No. 8829 application of Cumby Telephone Cooperative, Inc. to amend tariff to provide custom calling and eliminate rate for tone calling service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 13, 1989, 2:43 p.m.

TRD-8905201

◆ ◆ ◆
Texas Veterans Commission

Friday, July 21, 1989, 10 a.m. The Texas Veterans Commission will meet in Aboretum Room II, Hyatt Regency Hotel, 1200 Louisiana Street, Houston. According to the agenda, the commission will consider reports on activities of the Commission and to make decision relative to general administrative matters pertaining to Texas' veterans' programs.

Contact: Doug Brown, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

Filed: June 14, 1989, 10:52 a.m.

TRD-8905236

◆ ◆ ◆
**Board of Vocational Nurse
Examiners**

July 10-12, 1989, 8 a.m., daily. The Board of Vocational Nurse Examiners will meet in the Trinity Room, Howard Johnson Plaza Hotel North, 7800 North IH-35, Austin. According to the agenda summary, the board will approve minutes, hear executive director's report, education report (program matters, program actions, review of April 18,

1989 NCLEX-PN score summary, rule revision regarding 233.25 workshops, discussion of HCR 115, approval of revised position statement on continuing education) unfinished business, new business, administrative hearings, agreed orders/involuntary surrenders, closed session for draft review and executive session for personnel changes.

Contact: Marjorie A. Bronk, P.O. Box 141007, Austin, Texas 78714-1007, (512) 835-2071.

Filed: June 13, 1989, 3:52 p.m.

TRD-8905213

◆ ◆ ◆
Texas Water Commission

Thursday, June 15, 1989, 10 a.m. The commission met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, 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 the entirety or for particular action at a future date or time. The emergency status was necessary because situation presents an imminent and scheduling endangerment to human health and safety and the environment.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: June 14, 1989, 4:06 p.m.

TRD-8905251

Monday, June 26, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the Texas Water Commission of Texas. 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 Texas Water 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: June 13, 1989, 3:25 p.m.

TRD-8905209

Monday, June 26, 1989, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North

Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the Texas Water Commission of Texas. 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 Texas Water 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: June 13, 1989, 3:28 p.m.

TRD-8905210

West Texas State University

Monday and Tuesday, June 19 and 20, 1989, 8:30 p.m. and 8 a.m. respectively. The Board of Regents met in Board Room II, Embassy Suites Hotel-Dallas Love Field, 3880 West Northwest Highway, Dallas. According to the agenda, the board will focus on the administrative role of governing boards; the direction of the institution; university planning; and institutional priorities.

Contact: Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-2100.

Filed: June 14, 1989, 8:50 a.m.

TRD-8905234

Regional Meetings

Meetings Filed June 13, 1989

The Ellis County Appraisal District, submitted a revised agenda for the meeting held at 406 Sycamore Street, Waxahachie, on June 15, 1989 at 7 p. m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Golden Crescent Service Delivery Area, Private Industry Council, Inc., submitted an emergency revised agenda for a meeting held at 2705 Houston Highway, Victoria, on June 14, 1989 at 6:30 p.m. The emergency status was necessary because of a change in meeting location due to building not complete. Information may be obtained from Jane A. Abell, P.O. Box 2149, Victoria, Texas 77902.

The Hays County Appraisal District, Appraisal Review Board, met at 632 "A" East Hopkins-Municipal Building, San Marcos, on June 19, 1989 at 8:30 a. m. Information may be obtained from Lynnell Sedlar, 632

"A" East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

Heart of Texas Council of Governments, Executive Committee will meet at HOTCOG Conference Room, 320 Franklin Avenue, Waco, on June 22, 1989 at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Lamar County Appraisal District, Appraisal Review Board, met at 521 Bonham Street, Lamar County Appraisal District, Paris, on June 19, 1989 at 9 a.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (214) 785-7822.

The Wise County Appraisal District, Appraisal Review Board, will meet at 206 South State Street, Decatur on June 20 and 22, 1989, at 9 a.m. daily. The board will also meet at 201 East Walnut on June 26, 1989 at 10 a.m. Information may be obtained from Wise County Appraisal District, 206 South State Street, Decatur, Texas 76234, (817) 627-3081

TRD-8905195

Meetings Filed June 14, 1989

The Bastrop County Appraisal District, Appraisal Review Board, will meet at Bastrop County Appraisal District, 1200 Cedar Street, Bastrop, on June 22, 1989, at 7 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on June 19, 1989 at 9 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Hansford Appraisal District, Appraisal Review Board, will meet at 709 West Seventh Street, Spearman, on June 22, 1989, at 9:30 a.m. Information may be obtained from Alice Peddy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575.

The Harris County Appraisal District, Board of Directors, will meet on Eighth Floor, 2800 North Loop West, Houston, on June 21, 1989 at 1:30 p. m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Henderson County Appraisal District, Board of Directors, met at 1751 Enterprise, Athens, on June 19, 1989 at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas, (214) 675-9296.

The Lee County Appraisal District, Appraisal Review Board, will meet at Courthouse, Giddings, on June 22, 1989 at 10:30 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street,

Giddings, Texas 78942, (409) 542-9618.

The Limestone County Appraisal District, Board of Directors, will meet in Meeting Room, Limestone County Courthouse, Groesbeck, on June 21, 1989 at 5 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 304 South 22nd Street, Temple, on June 20, 1989, at 7:45 p.m. Information may be obtained from Michael K. Muegge, 304 South 22nd, Temple, Texas 76503.

The Nortex Regional Planning Commission, General Membership Committee, submitted an emergency revised agenda for a meeting to be held at Hilton Hotel, Wichita II Room, 401 Broad Street, Wichita Falls, on June 15, 1989, at Noon. The emergency status was necessary because of added items to agenda. Information may be obtained from Dennis R. Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas (817) 322-5281.

The Upper Leon River Municipal Water District, Board of Directors, will meet at General Office of the Filter Plant, Proctor Lake, Comanche, on June 22, 1989 at 6:30 p.m. Information may be obtained from Upper Leon River Municipal Water District, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258.

TRD-8905216

Meetings Filed June 15, 1989

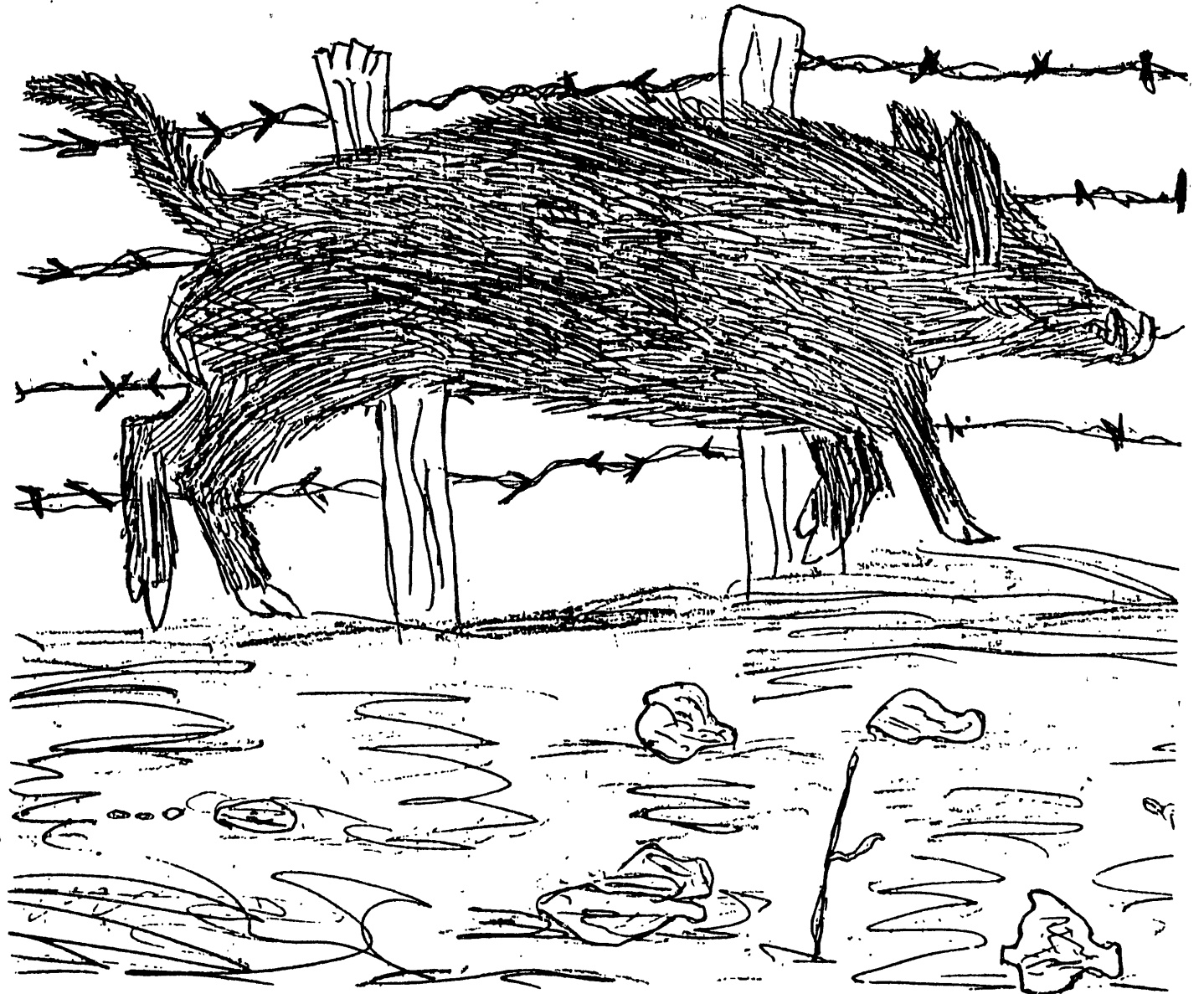
The Deep East Texas Council of Governments, Board of Directors, will meet at Lufkin Civic Center, Lufkin, on June 22, 1989 at 11 a.m. Information may be obtained from Katie Bayliss, 274 East Lamar Street, Jasper, Texas.

The Liberty County Central Appraisal District, will meet at 1820 Sam Houston, Liberty, on June 20, 1989 at 9 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The Tarrant Appraisal District, Appraisal Review Board, submitted a revised agenda for the meeting held at 2309 Gravel Road, Fort Worth, on June 20, 1989 at 8:30 a.m. Information may be obtained from Coordinator to the Appraisal Review Board, 2309 Gravel Road, Fort Worth, Texas 761118, (817) 284-8884.

The Wheeler County Appraisal District, Board of Directors, met in Wheeler County Appraisal District's Office, County Courthouse Square, Wheeler, on June 19, 1989 at 8 a.m. Information may be obtained from Bobby Jennings or Jenaine Horton, P.O. Box 1200, Wheeler, Texas (806) 826-5900.

TRD-8905252



Name: Jason Snider

Grade: 6

School: H.B. Zachry Middle School, Northside

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 Air Control Board Request for Submission of Bids for Insurance

In accordance with T.C.S., Article 6252-19a, the Texas Air Control Board will carry liability insurance for officers and employees who operate motor vehicles for this agency. The agency is requesting bids for motor vehicle and trailer coverage in the amount of \$300,000/\$500,000/\$50,000. This coverage is to be effective for one year beginning September 1, 1989. Listed as

follows are the motor vehicles and trailers to be included in this coverage. Statewide claim service is required.

If you are interested in bidding on this coverage, please submit your bid no later than 3 p.m., June 30, 1989. Bidders will be notified of the results. Bidders will be required to bid only a net anticipated cost of the policy. As of September 1, 1988, the Texas Air Control Board had a rate modifier of 69%.

The liability policy will be subject to approval by the State Board of Insurance as to form and by the attorney general as to liability as required by the original statute.

<u>ACB NO.</u>	<u>DESCRIPTION</u>	<u>LICENSE NO.</u>	<u>VIN</u>	<u>LOCATION</u>
12106	1985 Ford LTD SW	475-836	1FABP403XFG230303	Abilene
13259	1988 Chevrolet SW	541-523	1G1AW81WXJ6252396	Abilene
11526	1983 Ford LTD SW	436-907	1FABP4037DG195085	Lubbock
12857	1988 Chevrolet SW	530-857	1G1AW81W3J6153158	Lubbock
10687	1981 Ford SW	396-448	1FABP23B6BA160755	Waco
11857	1984 Ford SW	458-789	1FABP4032EG246915	Waco
12690	1987 Chevrolet SW	514-627	1G1AW81W1H6196570	Waco
12691	1987 Chevrolet SW	514-628	1G1AW81WOH6196575	Waco
12849	1988 Chevrolet SW	530-849	1G1AW81W5J6151427	Waco
10682	1981 Ford SW	396-428	1FABP23B4BA160754	Harlingen
12688	1987 Chevrolet PU	514-650	1GCDR14H3HS149368	Harlingen
12850	1988 Chevrolet SW	530-850	1G1AW81WXJ6151455	Harlingen
11096	1982 Dodge PU	417-500	1B7FD14P1CS277440	Corpus Christi
11529	1983 Ford SW	436-911	1FABP4032DG195088	Corpus Christi
12692	1987 Chevrolet SW	514-629	1G1AW81W9H6196588	Corpus Christi
12851	1988 Chevrolet SW	530-851	1G1AW81W3J6151572	Corpus Christi
11097	1982 Ford SW	414-003	1FABP2831CG152935	Odessa
11858	1984 Ford LTD SW	458-790	1FABP4038EG241165	Odessa
12107	1985 Ford LTD SW	475-837	1FABP4038FG230302	Odessa
12687	1988 Chevrolet 1/2 Ton PU	515-732	1GCDR14H1HS149370	Odessa
9690	1979 Dodge Van	354-407	B32JF9X217910	Houston
11525	1983 Chevrolet SW	437-842	1G1AC35P1DJ168967	Houston
11856	1984 Ford LTD SW	458-788	1FABP4036EG244164	Houston
12102	1985 Ford LTD SW	475-832	1FABP4037FG230307	Houston
12103	1985 Ford LTD SW	475-833	1FABP4035FG230306	Houston
12693	1987 Chevrolet SW	514-630	1G1AW81WXH6196597	Houston
12694	1987 Chevrolet SW	514-631	1G1AW81W2H6196609	Houston
12689	1987 Chevrolet PU	514-649	1GCDR14H8H5149379	Houston
12847	1988 Chevrolet SW	530-847	1G1AW81WXJ6150533	Houston
12848	1988 Chevrolet SW	530-848	1G1AW81WXJ6150581	Houston
13262	1988 Chevrolet SW	541-526	1G1AW81W3J6249579	Houston
13301	1988 Chevrolet SW	541-522	1G1AW81WXJ6253418	Houston
9691	1979 Dodge Van	354-408	B32JF9X217911	Fort Worth
11527	1983 Ford LTD SW	436-910	1FABP4035DG195084	Fort Worth
11532	1983 GMC PU	440-389	1GTBS14B5D2517850	Fort Worth
12104	1985 Ford LTD SW	475-834	1FABP4033FG230305	Fort Worth
12695	1987 Chevrolet SW	514-622	1G1AW81W1H6196617	Fort Worth
12696	1987 Chevrolet SW	514-623	1G1AW81W3H6196635	Fort Worth
12697	1987 Chevrolet SW	514-624	1G1AW81W4H6196630	Fort Worth
12796	1988 Chevrolet SW	529-416	1G1AW81W1J6127531	Fort Worth
12797	1988 Chevrolet SW	529-417	1G1AW81W4J6128415	Fort Worth
12798	1988 Chevrolet SW	529-418	1G1AW81W6J6131848	Fort Worth
12839	1988 Chevrolet PU	529-544	1GCDC14H3JZ168629	Fort Worth
12852	1988 Chevrolet SW	530-852	1G1AW81W8J6152281	Fort Worth
12839	1988 Chevrolet PU	529-544	1GCDC14H3JZ168629	Fort Worth
12852	1988 Chevrolet SW	530-852	1G1AW81W8J6152281	Fort Worth
9715	1979 Ford SW	353-654	9T12Y24638	San Antonio
10702	1981 Ford Van	396-433	1FTEE14F4BHA97512	San Antonio
12698	1987 Chevrolet SW	514-625	1G1AW81W4H6196644	San Antonio

<u>ACB NO.</u>	<u>DESCRIPTION</u>	<u>LICENSE NO.</u>	<u>VIN</u>	<u>LOCATION</u>
12853	1988 Chevrolet SW	530-853	1G1AW81W5J6152285	San Antonio
12854	1988 Chevrolet SW	530-854	1G1AW81W0J6152288	San Antonio
11524	1983 Ford Van	440-995	1FBBHS31L4DHB57307	Beaumont
12105	1985 Ford LTD SW	475-835	1FABP4031FG230304	Beaumont
12101	1985 Chevrolet PU	478-374	2GCCC14H5F1202940	Beaumont
12699	1987 Chevrolet SW	514-626	1G1AW81W3H6196652	Beaumont
12855	1988 Chevrolet SW	530-855	1G1AW81W0J6152341	Beaumont
13260	1988 Chevrolet SW	541-524	1G1AW81W2J6252408	Beaumont
13263	1988 Dodge Van	541-527	2B7HB23Y8JK170309	Beaumont
10260	1980 Ford SW	375-468	OT12A190143	El Paso
10700	1981 Ford PU	396-432	1FTCF10E2BNA88312	El Paso
11530	1983 Ford LTD SW	436-907	1FABP4034DG195089	El Paso
11859	1984 Ford LTD SW	458-791	1FABP4037EG241645	Tyler
12109	1985 Ford SW	475-839	1FABP4034FG230300	Tyler
12856	1988 Chevrolet SW	530-856	1E1AW81W6J6153073	Tyler
13261	1988 Chevrolet SW	541-525	1G1AW81W3J6252529	Tyler
7478	1975 Dodge Van	259-896	B22BF5X024951	Austin
7481	1975 Dodge Van	262-200	B21BF5X027938	Austin
10121	1980 Chevrolet Van	374-305	CGM34A4128420	Austin
10122	1980 Chevrolet Van	374-306	CGM34A4128449	Austin
10264	1980 Ford PU	378-936	SGTCXA03769	Austin
10699	1981 Ford PU	396-431	1FTCF10E8BPA86892	Austin
11695	1984 Chevrolet Van	443-940	2GCEG25COE4125641	Austin
11694	1984 Chevrolet Van	443-941	1GBHC34WXEV110076	Austin
12108	Ford LTD SW	475-838	1FABP4036FG230301	Austin
12292	1975 GMC PU	482-876	TCZ345B517102	Austin
12486	1986 GMC Flatbed Truck	510-812	1GDG6D1BOHV502988	Austin
12799	1988 Chevrolet SW	529-419	1G1AW81W1J6127531	Austin
12800	1988 Chevrolet SW	529-420	1G1AW81W4J6128415	Austin
12801	1988 Chevrolet SW	529-421	1G1AW81W6J6131848	Austin
12840	1988 Chevrolet SW	530-840	1G1AW81WXJ6149589	Austin
12841	1988 Chevrolet SW	530-841	1G1AW81W2J6149604	Austin
12842	1988 Chevrolet SW	530-842	1G1AW81W5J6149645	Austin
12843	1988 Chevrolet SW	530-843	1G1AW81W5J6149662	Austin
12844	1988 Chevrolet SW	830-544	1G1AW81W8J6149686	Austin
12845	1988 Chevrolet SW	530-845	1G1AW81WXJ6149690	Austin
12846	1988 Chevrolet SW	430-846	1G1AW81W2J6149831	Austin
13275	1989 Dodge Van	539-649	2B5WB35Z306352	Austin
13605	1989 Ford Truck	549-650	1FDKE37G2KHA38165	Austin

Trailers

7108	1974 Utility Trailer	915-162	2,500 lbs.	Beaumont
8791	1977 Utility Trailer	922-125	2,600 lbs.	Austin
9086	Smoke Generator	925-429	1,400 empty 4,000 gr.	Austin
9200	1978 Utility Trailer	923-441	2,600 lbs.	Fort Worth
9799	1979 Carrier Trailer	928-987	2,000 lbs.	Beaumont
9800	Utility Trailer	929-053	2,600 lbs.	Houston
11699	Bedell Van Trailer	940-883	12,500 lbs.	Austin
11831	Bedell Generator Trailer	942-613	4,300 lbs.	Austin
12254	Utility Trailer	946-350	Under 4,000 lbs.	Austin
12685	Metalcraft Box Trailer		27,400 lbs.	Austin

Issued in Austin, Texas on 12th day of June, 1989.

TRD-8905188

Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: June 12, 1989

For further information, please call 451-5711.

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**Texas Department of Commerce
Amendment To Consultant Contract
Award**

On April 15, 1987, pursuant to the provisions of Texas Civil Statutes, Article 6252-11c, a consultant contract was awarded to Intercultural Development Research Association to conduct independent evaluations of Texas Department of Commerce grant programs for at-risk youth. Notice is hereby given of the intent to modify the existing contract after 10 days from the date of publication.

The proposed modification will require the contractor to add an evaluation component to the contract to provide an evaluation of the Edgewood Independent School District Hispanic Business Mentorship Program. The complete name and business address of the consultant is Intercultural Development Research Association, 5835 Callaghan Road, Suite 350, San Antonio, Texas 78228.

As proposed, this modification will increase the amount of the original award by \$9,969. The ending date of the contract has been extended until January 30, 1990. The original consultant proposal request appeared in the December 5, 1986, issue of the *Texas Register* (11 Tex Reg 4916).

Issued in Austin, Texas on June 8, 1989.

TRD-8905171

J. William Lauderback
Executive Director
Texas Department of Commerce

Filed: June 12 1989

For further information, please call 320-9666.

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**Texas Education Agency
Correction to Request for Applications**

In the May 30, 1989, issue of the *Texas Register* (14 TexReg 2634), the Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Department of Commerce issued a request for applications (RFA 701-90-007) to conduct three regional planning projects to link occupational education and training with the needs of business and industry to support economic development. This RFA is hereby corrected to limit proposed project regions to state planning regions established under the Regional Planning Act of 1965, as amended and codified by the Local Government Code, Chapter 391. The correction is necessary as a result of passage of Senate Bill 417, approved by the 71st Texas Legislature (regular session), which specifies that the State Board of Education shall establish vocational education service delivery regions throughout the state that have the same boundaries as the state planning regions.

Issued in Austin, Texas on June 13, 1989.

TRD-8905206

W. N. Kirby
Commissioner of Education
Texas Education Agency

Filed: June 13, 1989

For further information, please call 463-9212.

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**Governor's Office of Budget and
Planning
Consultant Contract Award**

In compliance with Texas Civil Statutes, Article 6252-11c, the Governor's Office of Budget and Planning furnishes this notice of consultant contract award.

The consultant proposal request appeared in the March 24, 1989, issue of the *Texas Register* (14 TexReg 1547). The project requires the contractor to provide on-site energy evaluations for Texas school districts and program-related orientation and implementation workshops, as authorized by the Governor's Energy Management Center.

The contractor selected to perform this service is Estes, McClure and Associates, 3608 West Way, Tyler, Texas 75703. Total value of the contract is \$165,000. The contract period extends from June 1, 1989-December 31, 1989.

Issued in Austin, Texas on June 13, 1989.

TRD-8905184

Ron Lindsey
Director
Governor's Office of Budget and Planning

Filed: June 13, 1989

For further information, please call 463-1931.

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**Texas Rehabilitation Commission-Texas
Advisory Board of Occupational
Therapy
Contested Hearing Notice**

Pursuant to the authority provided in the Occupational Therapy Title Act, Article 8851, §30 and 31 in the Occupational Therapy Title Act, as amended, the rules of the Texas Advisory Board of Occupational Therapy (TABOT), and the Administrative Procedure and Texas Register Act, as amended Texas Civil Statutes, (Article 6252-13a) a hearing by TABOT will be conducted in a contested case, 89-1, to consider whether or not disciplinary action should be taken against respondent, Sharon Ewing (hereafter identified as respondent), concerning allegations that respondent did:

On or about February 27, 1989, February 28, 1989, March 2, 1989, and March 6, 1989, at Dallas, wrongfully complete and sign an intermittent care client progress note (ICCPN) for Mary Stapleton, which report was wholly false, in that she did not visit Mary Stapleton on the above-named dates, all of which is in violation of TABOT rules, §381.1(b)(6)(D), which prohibits the intentional making or filing of a false or misleading report, and of the TABOT rules, §381.1(b)(4), which prohibits a licensed therapist from being grossly negligent in the practice of occupational therapy.

On or about the period between January 1, 1989-March 31, 1989, at Dallas, wrongfully sign or trace the signatures of: Ada Boulton, Bonnie Carter, John Garrison, G. Johnson, Mary Stapleton, and W. Campbell, which is in violation of the TABOT rules, §381.1(b)(6), which prohibits the intentional making or filing of a false or misleading report and the TABOT rules, §381.1(b)(4) which prohibits

a licensed therapist from being grossly negligent in the practice of occupational therapy.

On or about the period between January 1, 1989, and April 30, 1989, wrongfully use prescription drugs and intoxicating liquors to an extent that affects her professional competence in a manner that is dangerous to the licensee, any other person, or the public; or to an extent that such use impairs the licensee's ability to practice occupational therapy in a safe and responsible manner, which is in violation of the TABOT rules, §381.1(b)(1).

Respondent is directed to appear at the time and place shown below. Respondent will be provided an opportunity to present evidence on her behalf.

Information regarding this hearing and copies of the TABOT's rules are available at the agency located at 4900 North Lamar Boulevard, Austin, Texas 78751-2316.

The TABOT has set the hearing to begin at 10 a.m. on June 26, 1989, at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin, Texas 78751-2316.

Issued in Austin, Texas on June 14, 1989.

TRD-8905229 Linda Vaclavik
Executive Director
Texas Rehabilitation Commission

Filed: June 14, 1989

For further information, please call (512) 473-4072.

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Public Utility Commission of Texas
Commission Review of Substantive Rule
23.28

The Public Utility Commission of Texas is considering amending its Substantive Rule 23.28, relating to promotional rates for certain services. In order to solicit the comments of interested parties regarding such possible amendment, the commission publishes the following questions.

1. What changes would need to be made in Substantive Rule 23.28 for local exchange carriers (LECs) to begin filing their requests for promotional rate tariffs under it?
2. Might the existing notice requirements in the rule be relaxed without unduly reducing public awareness of the LEC's intentions? If so, how?
3. Would LECs be more likely to file under the rule if they were allowed the option of charging promotional rates in only those exchanges with surplus capacity?
4. If this flexibility were granted, what evidence might the LEC be required to submit in support of its conclusions as to capacity utilization in its exchanges?
5. To what extent should the current restrictions on the periods over which promotional rates may be charged be relaxed?
6. What benefits and costs would result from extending such periods?
7. Should the rule specify some rate case treatment other than that currently prescribed for the revenues associated with a promoted service? Please specify and justify your suggestion.
8. Why should the rule permit a decrease in connection charges for residential subscribers of basic local service? Exactly what benefits and costs would such a policy entail for existing ratepayers?

Persons who wish to respond to these questions should send their written comments (11 copies), within 30 days after publication of these questions, to Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757.

Issued in Austin, Texas on June 13, 1989.

TRD-8905205 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 13, 1989

For further information, please call 458-0100.

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Consultant Proposal Request

This consultant proposal request is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The Public Utility Commission of Texas (PUCT) is seeking a consultant to conduct a comprehensive management and operations review of West Texas Utilities (WTU).

WTU is a generating electric utility supplying electric service to approximately 178,000 in Central and West Texas. WTU's main office is in Abilene and it has six district offices. In 1988 WTU had about 1,460 employees and operating revenues of approximately \$302 million. WTU operates nine generating stations with a fuel mix of 67% natural gas and 33% coal. WTU is not currently involved in any major plant construction projects.

The PUCT will be the client for this study. The consultant will be selected by and report to PUCT during the course of the audit. WTU will make all payments for the audit after approval by PUCT.

Neither the State of Texas, nor PUCT, nor employees of the PUCT will be responsible in any manner for any costs incurred by any party respondent to this request for proposals (RFP).

The PUCT reserves the right to reject any and all proposals received as a result of this RFP, and to negotiate separately with competing contractors. The PUCT reserves the right to accept other than the lowest offer.

A pre-bid meeting will be held at 10:30 a.m. on Thursday, July 6, 1989, in the commission's office in Austin. Interested consultants should contact Richard Greffe, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas, (512) 458-0338, for a complete copy of the request for proposals.

Proposals will be due on or before 5 p.m., Tuesday, August 1, 1989.

All proposals received shall be subject to evaluation by a committee of qualified PUCT personnel to select the proposal which most closely meets the requirements of the RFP. The staff will make a recommendation to the PUCT commissioners who will make the final selection. The following criteria will be considered in making the selection: Professional Personnel. This refers to the qualifications of the personnel who would be assigned to the audit; Contractor Qualifications. This includes the ability of the contracting firm to meet the terms of the RFP, including the time constraint, and the quality, relevance, and recency of studies and projects completed by the contractor; Cost. This will be an assessment of the reasonableness of the total project cost and the cost per man-hour; Approach/Workplan. Emphasis here is on the techniques for collecting and analyzing data, the sequence and relationships of major steps, and the quality and level of detail in the workplan; Problem Understanding. This refers to the

clarity and completeness of the consultant's understanding of the requirements of this audit and the commission's objectives in undertaking the study; Minority Firm Participation. Consultants will be evaluated on their utilization of minorities and of women, in general and on this specific project.

Issued in Austin, Texas on June 13, 1989.

TRD-8905217 Mary Ross McDonald
Secretary
Public Utility Commission of Texas

Filed: June 14, 1989

For further information, please call (512) 458-0100

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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 June 5-9, 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.

City of Denver City; wastewater treatment facility; approximately one mile northwest of the intersection of FM Road 2055 and State Highway 214 and south-southeast of the City of Denver City, Gaines County; 10087-03; new.

City of Easton; wastewater treatment facility; immediately north of and adjacent to the Santa Fe Railroad, approximately 0.5 mile east-northeast of the intersection of FM Road 2906 and the Gregg/Rusk County line in the City of Easton, northeast Rusk County; 13480-01; new.

Occidental Chemical Corporation, Corpus Christi Plant; Ingleside; a chemical manufacturing facility producing vinyl chloride monomer; approximately three miles southeast of the City of Gregory between Corpus Christi Bay and State Highway 361, San Patricio County; 03083; new.

Orange County Water Control and Improvement District Number 1; Vidor; Oak Lane and Tiger Creek Wastewater

Treatment Facility; approximately 300 feet northwest of the intersection of Oak Lane and Ferndale Streets in the City of Vidor, Orange County; 10875-04; new.

Sheridan Water Supply Corporation; Sheridan Sewage Treatment Plant; approximately 1,400 feet east-southeast of the intersection of United States Highway 90 Alternate and FM Road 2437 near the City of Sheridan, Colorado County; 13452-01; new.

Aluminum Company of America; Palestine; Palestine Plant which is a primary aluminum smelting plant; approximately 1.25 miles southeast of United States Highway 79, about seven miles northeast of the City of Palestine, Anderson County; 01919; renewal.

Bahran Solhjou; Houston; Rose Mobile Home Park Wastewater Treatment Plant; 825 Gulf Bank Road in the City of Houston, Harris County; 12882-01; renewal.

Exxon Chemical Company, Baytown Olefins Plant; manufacturer of organic chemicals; 3525 Decker Drive (Spur 330) in the City of Baytown, Harris County; 02184; renewal.

City of Houston; Turkey Creek Regional Wastewater Treatment Facility; on the south bank of Buffalo Bayou, approximately 1,200 feet south of the confluence of Turkey Creek with Buffalo Bayou in Houston, Harris County; 10495-109; renewal.

City of Nome; wastewater treatment facility; adjacent to Cotton Creek and at the intersection of Third Street and Cotton Creek which is approximately 1/2 mile north of the City of Nome, Jefferson County; 11564-01; renewal.

North Texas Municipal Water District; Wylie; Seis Lagos Wastewater Treatment Plant; approximately 0.8 mile southeast of the intersection of FM Road 1378 and FM Road 3286 (i.e. the City of Lucas), at 1007 Riva Ridge in the Seis Lagos Development, in Collin County; 11451-01; renewal.

Portwood Industrial Venture; Houston; wastewater treatment facility; approximately 700 feet southwest of the intersection of FM Road 527 and Liberty Road, adjacent to the north Southern Pacific Railroad right-of-way line in northern Harris County; 12179-01; renewal.

City of Royse City; wastewater treatment facility; approximately one mile south of the intersection of Interstate Highway 30 and FM Road 35 in Rockwall County; 10366-01; renewal.

GNB Inc.; Frisco; hazardous industrial solid waste storage facility; 7471 South Fifth Street on a 55.48 acre tract of land which is contiguous to the southern boundary of the city of Frisco, Collin County; HW-50206; amendment; 45 day notice period.

Paul E. Orlando doing business as Ed-Lou Mobile Home Park; Cypress; Ed-Lou Mobile Home Park Wastewater Treatment Facility; 15110 Grant Road, on the southbank of Faulkey Gully, approximately 800 feet northeast of Grant Road and approximately 600 feet west of Shaw Road in Harris County; 12600-01; amendment.

City of Runge; wastewater treatment facility; approximately 2,300 feet south and 1,600 feet east of the intersection of the United States Highway 81 and United States Highway 72 in the City of Runge, Karnes County; 10266-01; amendment.

Witco Chemical Corporation; Deer Park; an aluminum chloride manufacturing facility; north of and adjacent to Strang Road, approximately 1/2 mile east of the intersection of Strang Road and United States Highway 225 in the City of Deer Park, Harris County; 01785; amendment.
Issued in Austin, Texas, on June 9, 1989

TRD-8905211

Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: June 13, 1989

For further information, please call (512) 463-7908



profiles

A Guide to Texas State Agencies

Texas Animal Health Commission

The cattle tick, a parasite less than an eighth of an inch long, led in 1893 to establishment of the Livestock Sanitary Commission, renamed the Texas Animal Health Commission in 1959.

The battle against the cattle tick began in the mid-1800's, when veterinarians discovered this parasite can carry a microscopic protozoa that infects cattle with tick fever, a disease that kills up to 90 percent of infected animals within three days. So rampant was the disease in 1844, that 50 to 90 percent of Texas cattle driven to northern markets died along the trail. By the late 1870's, many states refused Texas cattle entry between the months of February and November, when the disease was most devastating.

The crippling financial effects of the quarantine convinced the 23rd Texas Legislature to pass a bill creating the Livestock Sanitary Commission. The law provided for protection of domestic livestock from dangerous or contagious disease; established quarantine lines, rules, and regulations; and outlined penalties for violations. Three commission members were appointed and given a two-year appropriation of \$20,000.

Across the south, experimental chemical preparations were sprayed, rubbed, dabbed, and brushed on cattle in an attempt to kill ticks but not the animal. By 1903, a dipping solution of arsenic, sal soda, and pine tar was developed. Nevertheless, in 1906 the U.S. reported tick-related losses of \$40 million per year, plus another \$33 million in lowered cattle values in the South. Congress reacted by making \$82,500 available to eradicate the tick in southern states.

When the national eradication program kicked off in 1906, 198 counties in Texas

were under quarantine. Today, the fever tick has been controlled to a point that only a narrow zone in eight counties along the Rio Grande River remains under a quarantine or "buffer zone" area.

The success of the "fever tick" program buoyed the cattle industry in Texas and provided the impetus for agency personnel to battle other dangerous or contagious disease outbreaks, such as foot and mouth disease, screwworm, and brucellosis. Many programs are conducted jointly with the U.S. Department of Agriculture, which provides additional personnel, equipment, and supplies.

The current state-federal brucellosis eradication program began in the early 1960's, when more than 11 percent of the state's cattle herds were infected. By the end of fiscal year 1988, fewer than one percent were infected. Progress continues to be made through state-federal personnel partnerships, producer cooperation, and regulations and procedures to eradicate the disease. Under federal guidelines, Texas has until Oct. 1, 1990, to reduce the brucellosis infection even more, or along with several other southern states, face the possibility once again of trade restrictions and quarantine.

Because disease poses a continuous threat to the state's livestock industry, the commission has authority to develop new programs and to regulate interstate movement of Texas livestock. Commission staff, together with accredited private veterinarians, routinely conduct inspections and administer vaccinations. Infected animals are either slaughtered or placed under quarantine, depending on the disease.

The Animal Health Commission is located in Austin and may be contacted at (512) 479-6697.