

# Texas Register

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## Texas Register

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- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
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1 indicates the title under which the agency appears in the *Texas Administrative Code*;

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



## Texas Register Publications

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♦ ♦ ♦

# Attorney General

**Description of Attorney General submissions.** Under provisions set out in the Texas Constitution, Texas Civil Statutes, Article 4399, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*.

## Open Records Decisions

**JM-492 (RQ-1265).** Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether information that is stored in a private entity's computer and that is available to a governmental body only through telephone link access is subject to the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

**Summary of Decision.** Raw data and economic projections maintained by a private consultant and provided to the State Comptroller, a governmental body, only on an as-needed basis through a direct telephone link to the consultant's computers, are not subject to the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, when collection of the data is not dependent on the authority of the governmental body. Only the raw data and projections that are actually accessed and stored or that appear in the comptroller's revenue estimates are covered by the Open Records Act.

Specific economic forecasts that the comptroller submitted for review that have been provided by an outside consultant pursuant to a contract with the State Comptroller and were provided as advice and recommendation to assist the comptroller in forecasting revenue needs are protected from required disclosure by the Open Records Act, §3(a)(11). TRD-8803972

## Opinions

**JM-889 (RQ-1203).** Request from L. L. Bowman III, Commissioner, Texas Savings and Loan Department, Austin, concerning authority of the Savings and Loan Department to obtain liability coverage for its officers and employees.

**Summary of Opinion.** (1) Texas Civil Statutes, Article 6252-19a, sets no maximum or minimum monetary coverage available to a state agency covered by the article.

(2) The statutory limits of liability prescribed by the Texas Tort Claims Act do not apply to an insurance policy purchased by a state agency pursuant to Texas Civil Statutes, Article 6252-19a.

(3) The attorney general does not review the amount of liability coverage purchased by a state agency pursuant to Texas Civil Statutes, Article 6252-19a.

(4) The current general appropriations act prohibits the use of appropriated funds for the purchase of insurance under the Texas Tort Claims Act. The attorney general does not have a statutory obligation to review insurance purchased pursuant to the Act. TRD-8803981

**JM-890 (RQ-1280).** Request from Bill Turner, Brazos County Courthouse, Bryan, concerning whether a contract for micro-filming of records of county clerks office is subject to competitive bidding.

**Summary of Opinion.** A contract for microfilm services does not fall within the "personal or professional service" exception of Local Government Code §262.024, and therefore must be let under the competitive bidding or competitive proposal procedures set forth in the County Purchasing Act, Local Government Code §262.021, et seq.

**JM-891 (RQ-1338).** Request from Hugh Farmer, Chairman, Intergovernmental Relations Committee, Texas State Senate, Austin, concerning whether an emergency communication district is authorized under Texas Civil Statutes, Article 1432e, to supply emergency communications service under contract with other jurisdictions.

**Summary of Opinion.** The Lubbock Emergency Communication District has the authority under the Interlocal Cooperation Act to contract to provide emergency communication services to jurisdictions that are not part of the district. The district has the authority to impose a fee on an incoming jurisdiction to cover the cost of providing emergency communication services to that jurisdiction. The membership of the board will not change until the expiration of the term of the member who will vacate the board. TRD-8803977

**JM-892 (RQ-1283).** Request from Neal E. Birmingham, District Attorney, P.O. Box 940, Linden, concerning whether a county commissioner acting as exofficio road commissioner may use county equipment, materials, and employees to lay out a road within limits of an incorporated city.

**Summary of Opinion.** In the absence of commissioners court approval pursuant to Texas Civil Statutes, Article 6702-1, §2.010, or a contract made in accordance

with the provisions of the Interlocal Cooperation Act, Texas Civil Statutes, Article 4413(32c), a county commissioner acting as exofficio road commissioner has no independent authority to use county equipment and employees to construct a road or alley within the corporate limits of a city located in the commissioner's precinct. TRD-8803976

**JM-893 (RQ-1185).** Request from Carlos Valdez, Nueces County Attorney, Corpus Christi, concerning whether a tax exemption for non-income-producing recreational boats applies to all such boats that were on the tax rolls as of the effective date of the statute.

**Summary of Opinion.** The statutory amendments to the Tax Code, §11.14, which provide for a so-called "local option" exemption from ad valorem taxation for non-income-producing boats, apply to all boats in a taxing unit that had not certified its tax rolls as of the effective date of the enactment. TRD-8803975

**JM-894 (RQ-1138).** Request from David Brabham, Criminal District Attorney, Longview, concerning the constitutionality of the Gregg County Special Road Law, and related questions.

**Summary of Opinion.** If the notice required by the Texas Constitution, Article III, §57 was not given, portions of the 1955 special road law for Gregg County are unconstitutional. But its remaining portions constitute a complete and workable law that has not been superseded by the County Road and Bridge Act of 1983. TRD-8803974

**JM-895 (RQ-1227).** Request from Edwin J. Smith, Jr. Chairman, State Board of Insurance, Austin, concerning of House Bill No. 677 of the 70th Legislature, the Texas Continuing Care Facility Disclosure and Rehabilitation Act.

**Summary of Opinion.** A continuing care facility described in Texas Civil Statutes, Article 8876, §4(g), is entitled to receive a certificate of authority without meeting the criteria found in §4(c) of that statute. Except for the §4(c) criteria, the entire statute

becomes applicable on its effective date to §4(g) facilities. If a facility is merely under construction on September 1, 1987, or if the provider has done no more than incur substantial financial obligations toward construction of a facility, the transition provision found in §20 is not applicable to it. The commissioner has authority to make the fact findings necessary to implement Texas Civil Statutes, Article 8876, §4(g).

TRD-8803973



# Emergency Rules

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

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

## TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas

### Chapter 3. Oil and Gas Division

#### Conservation Rules and Regulations

##### • 16 TAC §3.14, §3.58

The Railroad Commission of Texas adopts on an emergency basis amendments to §3.14 and §3.58 concerning well plugging; and certain oil, gas, or geothermal resource operators' reports. These emergency amendments contain several nonsubstantive changes to the proposed text published in the February 12, 1988, issue of the *Texas Register* (13 TexReg 825). The Railroad Commission of Texas adopts these amendments in order to prevent the needless plugging of wells with future potential, to increase the plugging of abandoned wells that threaten to pollute the state's fresh water supplies, to facilitate changes of operator on particular properties, and to stimulate production activity statewide. The reason for adopting these amendments on an emergency basis is the imminent peril that wells capable of production may be needlessly plugged before the date this amendment takes effect pursuant to normal rule adoption procedure. These amendments are being simultaneously adopted on a permanent basis pursuant to normal rule adoption procedure.

The amendment to §3.14 is adopted on an emergency basis under the authority of the Texas Natural Resources Code, Title 3, Subtitle A §81.052, and Subtitle B §85.202 and §91.101, which authorizes the Railroad Commission of Texas to adopt and enforce rules relating to the operation, abandonment, and proper plugging of wells. The amendment to §3.58 is adopted on an emergency basis under the authority of the Texas Natural Resources Code, Subtitle B §85.042, which authorizes the Railroad Commission of Texas to promulgate rules necessary to prevent the transportation and handling of oil and gas in violation of the conservation laws of the State of Texas and rules or orders of the commission.

##### **§3.14. Plugging.**

(a) (No change.)

(b) Plugging report and commencement of operations.

(1) A plugging record shall be completed, duly verified, and filed, in duplicate, on the appropriate form in the district

office within 30 days after plugging operations are completed. A cementing report made by the party cementing the well shall be attached to, or made a part of, the plugging report.

(2) Plugging operations on each dry or inactive well must be commenced within a period of one year after drilling or operations ceased and shall proceed with due diligence until completed. For good cause, a reasonable extension of time in which to start the plugging operations may be granted pursuant to the following procedures:

(A) the Oil and Gas Division director or the director's delegate may administratively grant an extension of time if the well is not a pollution hazard, and:

(i) provided that the well is in compliance with all other conservation laws and rules of the commission, the operator intends to use the wellbore, pays the proper fees as provided in §3.76 of this title (relating to fees required to be filed) (Statute Rule 78) and obtains a permit for this re-entry;

(ii) the operator posts a performance bond or other form of financial security in an amount acceptable to the staff to ensure that the commission will not have to plug the well with state funds; or

(iii) the operator has presented a viable plan for using the well in a secondary or tertiary recovery project within a reasonable time.

(B)-(C) (No change.)

(c) General plugging requirements.

(1) In plugging wells, it is essential that all formations bearing usable quality water, oil, gas, or geothermal resources be protected. Proper plugging is the responsibility of the operator of the well. For purposes of plugging responsibility, the commission will presume that the operator designated on the most recent commission-approved producer's transportation authority and certificate of compliance was the person responsible for the physical operation and control of the well at the time the well was abandoned or ceased operation. This presumption may be refuted at a hearing called for the purpose of determining plugging responsibility. All cementing operations during plugging must be performed

under the direct supervision of the operator or his authorized representative, who shall not be an employee of the service or cementing company hired to plug the well. Direct supervision means supervision on location at the well site.

(2)-(11) (No change.)

(d)-(i) (No change.)

**§3.58. Oil, Gas, or Geothermal Resource Operator's Reports.**

(a) Producer's transportation authority and certificate of compliance.

(1) Each operator who is a producer of crude oil, natural gas, or geothermal resources is required to file with the Austin office a producer's transportation authority and certificate of compliance for each of his producing properties certifying that the operator has complied with the conservation laws and the oil, gas, and geothermal resources conservation orders, rules, and regulations of the commission in respect to each property. When this report is filed, the Oil and Gas Division will review the report for completeness and accuracy and, when approved, this report authorizes a transporter (whether the operator or someone else) to transport the oil, gas, or geothermal resources from such property.

(2) The producer's transportation authority and certificate of compliance shall bind the operator until transferred on commission records to another operator.

(3) The appropriate district office or the Austin office may grant temporary authority for an operator to use a transporter not authorized for a particular property in order to take care of production and prevent waste. The operator shall secure such temporary authority in writing from the appropriate district office or the Austin office before the oil is moved. In an emergency situation the operator may secure such temporary authority verbally but shall notify the district office in writing within 10 days after the oil is moved. An emergency situation exists when oil must be moved off a lease because it poses an imminent threat to the public health and safety, or when the threat of waste is imminent. The operator shall also furnish copies of such authorization or notification to the regular transporter and to the temporary transporter.

(4) If an applicant wishes to assume operator status for a property, but is unable to obtain the signature of the pre-

vious operator on the producer's transportation authority and certificate of compliance, the applicant must file with the Oil and Gas Division in Austin an explanatory letter and legal documentation of the applicant's right to operate the property. Prior to approval of such an application, the Office of the General Counsel will notify the last known operator of record, if such operator's address is available, affording such operator an opportunity to protest.

(b) Monthly producer's report (oil and geothermal resources). For each calendar month, each operator who is a producer of crude oil or geothermal resources shall file with the commission the required form for each of his producing leases. On or before the last day of the month subsequent to the period or of the report, such operator shall file an original and one copy of each such form, the original to be filed in the Austin office, and one copy with the transporter taking the oil or geothermal resources from the lease.

(c) (No change.)

Issued in Austin, Texas, on April 18, 1988.

TRD-8803948 James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: April 18, 1988

Expiration date: May 8, 1988

For further information, please call: (512)  
463-7149

## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 75. Curriculum

##### Subchapter G. Other Provisions

###### • 19 TAC §75.169

The Texas Education Agency adopts an amendment on an emergency basis to §75.169, concerning award of credit, grades nine-12. The amendment would permit school districts to schedule class periods for no less than 50 (rather than 55) minutes per day in grades nine-12 if a seven-period day is implemented. Some school districts have requested this option to allow students more flexibility in scheduling. The amendment is adopted on an emergency basis to ensure that school districts and students which choose to implement the seven-period day will have adequate notice and time for schedule preparation for the fall semester.

The amendment is adopted on an emergency basis under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the well-balanced curriculum; and the Texas Education Code, §16.005, which authorizes the board to make rules for administration of the Foundation School Program.

§75.169. Award of Credit, Grades Nine-12.

(a) The award of credit for a course by a school district affirms that a student has satisfactorily met all state and local requirements. Courses for which credit is awarded shall be provided in accordance with this subsection.

(1) Courses offered for a unit of credit in grades nine-12 shall be scheduled for a minimum of 160 clock hours of class instruction. A unit of credit is the equivalent of the study of a subject that is scheduled for a minimum of 160 clock hours, which traditionally is one 55-minute period per day for the 175-day school year. A 1/2 unit of credit is 80 clock hours. This definition is based on the usual operation of schools. School districts may schedule class periods for no less than 50 minutes per day if a seven-period school day is implemented. Deviations from the usual operations are acceptable for meeting the unit of credit so long as the school makes available the amount of time required to permit the individual to meet the acceptable achievement standards for the course.

(2)-(6) (No change.)

(b) (No change.)

Issued in Austin, Texas, on April 15, 1988.

TRD-8803955 W. N. Kirby  
Commissioner of Education  
Texas Education Agency

Effective date: April 18, 1988

Expiration date: August 16, 1988

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

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 1. Texas Board of Health

##### Formal Hearing Procedures

###### • 25 TAC §1.34

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §1.34 until May 9, 1988. The text of new §1.34 was originally published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 216).

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8803994 Robert A. McLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health

Effective date: May 1, 1988

Expiration date: May 9, 1988

For further information, please call: (512)  
458-7236

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter V. Bingo Regulation and Tax

###### • 34 TAC §3.545

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.545, for a 60-day period effective April 15, 1988. The text of amended §3.545 was originally published in the December 25, 1987, issue of the *Texas Register* (96 TexReg 4877).

Issued in Austin, Texas on April 19, 1988.

TRD-8804010 Wade Anderson  
Rules Coordinator  
Comptroller of Public  
Accounts

Effective date: April 15, 1988

Expiration date: June 14, 1988

For further information, please call: (512)  
463-4004

###### • 34 TAC §3.547

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.547, for a 60-day period effective April 15, 1988. The text of amended §3.547 was originally published in the December 25, 1987, issue of the *Texas Register* (96 TexReg 4877).

Issued in Austin, Texas on April 19, 1988.

TRD-8804011 Wade Anderson  
Rules Coordinator  
Comptroller of Public  
Accounts

Effective date: April 15, 1988

Expiration date: June 14, 1988

For further information, please call: (512)  
463-4004

###### • 34 TAC §3.549

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.549, for a 60-day period effective April 15, 1988. The text of amended §3.549 was originally published in the December 25, 1987, issue of the *Texas Register* (96 TexReg 4878).

Issued in Austin, Texas on April 19, 1988.

TRD-8804008 Wade Anderson  
Rules Coordinator  
Comptroller of Public  
Accounts

Effective date: April 15, 1988

Expiration date: June 14, 1988

For further information, please call: (512)  
463-4004

• 34 TAC §3.563

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.563, for a 60-day period effective April 15, 1988. The text of amended §3.563 was originally published in the December 25, 1987, issue of the *Texas Register* (96 TexReg 4879).

Issued in Austin, Texas on April 19, 1988. •

TRD-8804009

Wade Anderson  
Rules Coordinator  
Comptroller of Public  
Accounts

Effective date: April 15, 1988

Expiration date: June 14, 1988

For further information, please call: (512)  
463-4004

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# Proposed Sections

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

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

## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 29. General Provisions

##### Subchapter D. [Texas Education Agency] Annual Operating Plan and Budget

###### 19 TAC §29.61, §29.62

The Texas Education Agency proposes amendments to §29.61 and §29.62, concerning general provisions for the annual operating plan and budget; and budget procedures. The amendments correct references to the Texas Education Code and allow more flexibility in the budget format. Outdated references have been deleted.

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

Mr. Moak and Dr. Beverly Bardsley, also have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a clearer presentation of the annual operating plan and budget for decision-making purposes. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

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

The amendments are proposed under the Texas Education Code, §11.29, which directs the State Board of Education to adopt an annual budget for operation of the Central Education Agency.

###### **§29.61 General Provisions.**

[(a) Policy. The budget for the Texas Education Agency shall be developed in accordance with the status of the state].

[(b) Administrative procedure.] The Central [Texas] Education Agency annual operating plan and budget is prepared in

accordance with the Texas Education Code, §11.29 and in accordance with other applicable statutes and regulations.  
**§29.62. Budget Procedures.**

(a) The commissioner of education will present an annual operating plan and budget to the State Board of Education for approval at its July meeting. On or before August 15 of each year a copy of the approved budget is filed with the State Comptroller of Public Accounts (Reference the Texas Education Code, §11.29 (f)(b)).

(b) [The] Budgeted amounts shall [totals will] correspond to the terms and provisions of [amounts appropriated in] the current appropriations act affecting [for the six programs of] agency administration. The agency shall not be limited in the use of federal funds [by the appropriations] for agency administration by budgeted amounts since these amounts are estimated.

(c) The annual operating plan and budget will authorize funds necessary for the administration and operation of the Central [Texas] Education Agency. The budget will show the amounts budgeted both by expense category and by source of funds. Expenses eligible for payment in whole or part from federal and special funds shall be designated in the budget. (Reference the Texas Education Code, §11.29(b)).

[(d) Expense items budgeted which are not eligible for payment from federal or special funds shall be paid from the Foundation School Program Fund, except that these payments for the operation of the Texas Education Agency may not exceed an amount of 4/10 of 1.0% of the total cost of the Foundation School Program as estimated by the board at its March meeting immediately prior to the adoption of the budget at its July meeting. (Reference Texas Education Code §11.29(c) and (d).)]

(d)[(e)] The annual operating plan and budget will show [for each cost center of the agency] the amount budgeted for the previous year by expense classification, and the amount budgeted for the next year by expense classification.

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803952

W. N. Kirby

Commissioner of Education

Proposed date of adoption: June 11, 1988

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

## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 75. Curriculum

The Texas Education Agency proposes amendments to §§75.141, 75.170, and 75.195, concerning description of a well-balanced elementary curriculum; school district policy, on grading, promotion, retention, remediation, and placement; and alternatives to social promotion. In each case, the amendment corrects a cross reference to §89.131, concerning definition of remedial and compensatory instruction, to reflect the title of the new section adopted by the State Board of Education in the March 25, 1988, issue of the *Texas Register* (13 TexReg 1454).

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

Mr. Moak and Beverly Bardsley, director for policy development have 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 correct and current cross references in the Texas Education Agency rules. 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 Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701 (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

## Subchapter E. Well-Balanced Curriculum

### • 19 TAC §75.141

The amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to designate essential elements for subjects in grades prekindergarten through 12 and to require that districts provide instruction in these elements as specified by the board; and Texas Education Code, §21.721, which directs the board to make rules concerning alternatives to social promotion.

*§75.141. Description of a Well-Balanced Elementary Curriculum.*

(a)-(f) (No change.)

(g) Provisions for prekindergarten programs. The following provisions apply to prekindergarten programs:

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

(7) Funding for prekindergarten.

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

(C) For purposes of calculating program funding, each prekindergarten student in ADA shall receive a weight of .75. Prekindergarten students are not to be included in counts for bilingual or compensatory education funding in accordance with the Texas Education Code, Chapter 16 (under §77.362 of this title (relating to Bilingual Education Allotment) or §89.191 of this title (relating to State Compensatory Education Allotment)).

(D) (No change.)

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803953 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: June 11, 1988

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

## Subchapter G. Other Provisions

### • 19 TAC §75.169

*(Editor's Note: The Texas Education Agency proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes amendments to §75.169, concerning award of credit, grades nine-12. The amendment would permit school districts to schedule

class periods for no less than 50 (rather than 55) minutes per day in grades nine-12 if a seven-period day is implemented. Some school districts have requested this option to allow students more flexibility in scheduling.

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

Mr. Moak and Beverly Bardsley, director for policy development, also have 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 allow students more flexibility in scheduling of high school courses in those districts that implement the seven-period day. 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 Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the well-balanced curriculum; and the Texas Education Code, §16.005, which authorizes the board to make rules for administration of the Foundation School Program.

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803956 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: June 11, 1988

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

### • 19 TAC §75.170

The amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to designate essential elements for subjects in grades prekindergarten through 12 and to require that districts provide instruction in these elements as specified by the board; and Texas Education Code, §21.721, which directs the board to make rules concerning alternatives to social promotion.

*§75.170. School District Policy on Grading, Promotion, Retention, Remediation, and Placement.*

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

(d) Policies regarding remediation must be consistent with §75.195 of this title (relating to Alternatives to Social Promo-

tion) and §89.131 [§75.174] of this title (relating to Definition of Remedial and [or] Compensatory Instruction).

(e) (No change.)

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803954 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: June 11, 1988

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

## Subchapter H. Promotion and Alternatives To Social Promotion

### • 19 TAC §75.195

The amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to designate essential elements for subjects in grades prekindergarten through 12 and to require that districts provide instruction in these elements as specified by the board; and Texas Education Code, §21.721, which directs the board to make rules concerning alternatives to social promotion.

*§75.195. Alternatives to Social Promotion.*

(a)-(m) (No change.)

(n) Districts are authorized to use state compensatory education funds to provide for services and alternative programs in accordance with §89.131 [§75.174] of this title (relating to Definition of Remedial and [or] Compensatory Instruction). Two or more school districts may enter into cooperatives to provide options and services.

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803951 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: June 11, 1988

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

## Chapter 77. Comprehensive Education

### Subchapter V. Adoptions by Reference

#### • 19 TAC §77.453

The Texas Education Agency proposes an amendment to §77.453, concerning the adoption by reference of the state plan for federal vocational education funding. This plan is the general application required to be submitted by the state to receive federal funds under the Carl D. Perkins Vocational Education Act,



The plan for 1989-1990 contains no major changes from the previous state plan. Changes which have been made include the addition of criteria for waiver of the local application for eligible recipients which provide relatively few vocational education programs with limited funds (§1.9-1); revision of the definitions of economically disadvantaged and academically disadvantaged to reflect current federal regulations (§2.6); and updating of the State of Texas preliminary detailed occupational employment projections to 1995, based on data provided by the Texas Employment Commission (Table 1).

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

Mr. Moak and Beverly Bardsley, director for policy development, also have 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 provision of enhanced vocational education programs through the use of federal funds under the Carl D. Perkins Vocational Education Act. 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 Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.02(c), which authorizes the Central Education Agency to enter into agreements with respect to educational undertakings with an agency of the federal government; §11.24(a), which designates the State Board of Education as the State Board for Vocational Education; and Public Law 98-524, which requires states receiving funds for vocational education to develop a three-year state plan and annual program plans for vocational education.

**§77.453. State Plan for Federal Vocational Education Funding.** The administrative provisions for occupational education and technology are described in the State Plan for Federal Vocational Education Funding, Fiscal Years 1989-1990 [1986-1988], adopted April 1988 [1985], which was developed as a requirement under Public Law 98-524. The plan is adopted by this reference as the Central Education Agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas. [On the effective date of this rule, the agency is located at 201 East Eleventh Street, Austin, Texas 78701. During the summer of 1985, the agency will move to

1701 congress Avenue, Austin, Texas 78701. After the agency's move, the rule will be available for inspection at that location.]

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803957

W. N. Kirby  
Commissioner of Education

Proposed date of adoption: June 11, 1988

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

## TITLE 22. EXAMINING BOARDS

### Part III. Texas Board of Chiropractic Examiners

#### Chapter 71. Applications and Applicants

##### • 22 TAC §71.8

The Texas Board of Chiropractic Examiners proposes an amendment to §71.8, concerning applications and applicants.

The amendment includes physiotherapy as a subject portion of the examination. The examinee may pass all three examinations of the National Board of Chiropractic Examiners and only be required to pass the board's x-ray written and x-ray interpretation examinations to be granted a license.

Bobbie Ferris, 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.

Ms. Ferris 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 candidates for licensure will be more adequately examined to prepare for practice. 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 Bobbie Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C-245, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary. **§71.8 Practical and Theoretical Examinations.**

(a) The subjects on which an examinee shall be examined in the practical and theoretical portion of the examination are x-ray diagnosis, orthopedic/neurological, [and] clinical competence and physiotherapy.

(b) (No change.)

(c) The board shall grant a license to an applicant that has successfully passed Parts I, II, and III of the National Board of Chiropractic Examiners examinations. The board shall require all applicants to successfully pass the x-ray written and x-ray interpretation portion of the practical examination as provided for in the Texas Chiropractic Act, §10(b) and §12.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804055

Bobbie Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 835-2006

## Chapter 73. Licenses and Renewals

##### • 22 TAC §73.3

The Texas Board of Chiropractic Examiners adopts an amendment to §73.3, with changes to the proposed text published in the February 5, 1988, issue of the *Texas Register* (13 TexReg 585).

The section will broaden the subject matter for continuing education courses for license renewal seminars.

The section will function as an additional course for the licensee to choose three of eight subject categories for continuing education for license renewal.

No comments were received regarding adoption of the amendment.

The section is adopted under Texas Civil Statutes, Article 4512b, and Senate Bill 109, 67th Legislature, 1981, §5, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

**§73.3. Refresher Courses.** Regarding continuing education courses for license renewal.

(1) Qualification requirements.

(A) The board may approve those continuing education license renewal courses sponsored by state and national chiropractic associations and chiropractic colleges offering any three of the following eight categories of subject matter during a consecutive two-day course with 10 total hours of course work being presented by two or more qualified speakers.

(i)-(vi) (No change.)

(vii) chiropractic philosophy;

(viii) risk management.

(B) (No change.)

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

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804056

Bobbie Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Effective date: May 11, 1988

Proposal publication date: February 5, 1988

For further information, please call: (512) 835-2006

## Chapter 77. Advertising and Public Communications

### • 22 TAC §77.2

The Texas Board of Chiropractic Examiners proposes an amendment to §77.2, concerning advertising and public communications publicity. The amendment deletes language that no longer applies to the section.

Bobbie Ferris, 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.

Ms. Ferris 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 have a broader choice of doctors based on the doctors advertising.

The possible economic cost to individuals who are required to comply with the rule as proposed cannot be determined since the agency has no way of knowing how many doctors engage in advertising.

Comments on the proposal may be submitted to Bobbie Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C-245, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary. §77.2. *Publicity.* A licensee shall not, on behalf of himself, his partner, associate, or any other licensee affiliated with him, use or participate in the use of any form of public communication which [:

[(1) contains a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim, or which has the tendency or capacity to mislead or deceive the general public.

[(2) contains a statement of opinion as the quality of chiropractic practice or services, or contains a representation

or implication regarding the quality of chiropractic practice or services which is not susceptible of reasonable verification by the public;

[(3) contains statistical data or other information based on past performance or prediction of future success;

[(4) contains a testimonial about or endorsement of a licensee, or utilizes case histories of a licensee's patients, or of patients of other licensees;

[(5) contains a statement or statements, or such other information or data, which is intended or is likely to attract patients by use of showmanship, puffery, self-laudation or hucksterism, including but not limited to the use of drawings, illustrations, animations, portrayals, dramatizations, slogans, jingles, music lyrics, pictures of photographs, or sensational language or format;

[(6) contains a statement which clearly fails to differentiate a chiropractic office or clinic from any other business or enterprise;

[(7) contains a statement which denotes or implies procedures whereby needles are utilized for treatment purposes, or otherwise uses or employees the terms "acupuncture", "acupressure", "acuthery", or any other term containing the prefix "acu-" in connection therewith;

[(8) shall offer free x-rays as a means of soliciting patients;

[(9) indicates that the licensee is a specialist in any field of chiropractic such as the use of the terms "chiropractic orthopedist", "chiropractic roentgenologist", "specializing in" or any other term indicating a specialty, except that a licensee may indicate on any form of public communication his or her status as a diplomate of the American Board of Chiropractic Roentgenology and/or the American Board of Chiropractic Orthopedics.

[(10) in any advertisement for a free or token service, examination or treatment by a health care provider licensed under this Act, the following statement must appear in capital letters clearly distinguishable from the rest of the text: "The patient and any other person responsible for payment has a right to refuse to pay or cancel payment, or be reimbursed for payment for any service, examination or treatment which is performed as a result of within 72 hours of responding to the advertisement for the free service, examination or treatment.]

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804058

Bobbie Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 835-2006

## Chapter 78. Chiropractic Radiologic Technologists

### • 22 TAC §78.1

The Texas Board of Chiropractic Examiners proposes new §78.1, concerning chiropractic radiologic technologists.

The amendment complies with requirements in Senate Bill 1439, 70th Legislature, 1987, effective January 1, 1988, for registration requirements for chiropractic radiologic technologists.

Bobbie Ferris, executive director, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state and local government and small businesses as a result of enforcing or administering the section, but the agency is unable to estimate the cost; because the board does not know how many chiropractic radiologic technologists will register.

Ms. Ferris also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be better and safer provisions for the protection of the consumer public.

The possible economic cost to individuals who are required to comply with the section as proposed will be a \$25 annual registration fee.

Comments on the proposal may be submitted to Bobbie Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C-245, Austin, Texas 78752.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary. §78.1. *Registration of Chiropractic Radiologic Technologists.*

(a) Any person performing radiologic procedures under the supervision of a chiropractor must register the Texas Board of Chiropractic Examiners. This section does not apply to registered nurses or to persons certified under the Medical Radiologic Technologist Certification Act.

(b) The fee for registration required under this section shall be \$25, payable to the Texas Board of Chiropractic Examiners by cashier's check or money order upon submission of the registration application.

(c) Registration may be suspended, revoked, or not renewed for the following reasons:

(1) violation of the rules of the Texas Board of Chiropractic Examiners;

(2) violation of the Medical Radiologic Technologist Certification Act;

(3) violation of the rules of the

Texas Department of Health;

(4) violation of the Texas Chiropractic Act;

(5) violation of the rules of the registrant's licensing agency; and

(6) nonpayment of registration fees.

(d) A registrant may perform only plain film procedures of the chest, spine, extremities, abdomen, and skull, unless otherwise licensed, authorized by the Texas Department of Health, or performing procedures under standing delegation orders issued by a licensed chiropractor.

(e) All registrants must comply with the rules of the Texas Department of Health for the control of radiation.

(f) All registrant's who perform radiologic procedures must meet the minimum training and supervision standards promulgated by the advisory board of the Texas Department of Health, unless they perform said procedures under the supervision issued by a licensed chiropractor.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804057

Bobbie Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 835-2006

## Part XI. Board of Nurse Examiners

### Chapter 213. Practice and Procedure

#### • 22 TAC §§213.16, 213.17

The Board of Nurse Examiners proposes new §213.16 and §213.17 concerning prehearing conference and agreed orders.

These new sections are being proposed to provide for an intermediate step in the disciplinary process. The prehearing conference will provide an informal mechanism for simplifying the issues, clarifying the direction of disciplinary proceedings and may result in the resolution of charges through mediation, thus resulting in fewer contested cases before the board.

Louise Sanders, executive secretary, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Sanders also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as

a result of enforcing the sections will be a cost effective mechanism for facilitating the resolution of charges filed against a nurse - either through agreed orders or by clarifying and simplifying the disciplinary proceedings.

Comments on the proposal may be submitted to Louise Sanders, Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752.

The new sections are proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with the Act. Such rules and regulations shall not be inconsistent with the provisions of this law. §213.16. *Prehearing Conference.*

(a) The executive secretary, unilaterally or at the request of the staff or respondent, may direct the parties, their attorneys or representatives to appear before the executive secretary or a hearings examiner designated by the executive secretary at a specified time and place for a conference prior to the hearing for the purpose of:

- (1) simplifying the issues;
- (2) considering the making of admissions or stipulations of fact or law;
- (3) reviewing the procedure governing the hearing;
- (4) limiting, where possible, the number of witnesses; and
- (5) doing any act that may simplify the proceedings, and disposing of the matters in controversy, including settling such issues as in dispute and entering an agreed order under §213.17 of this title (relating to Agreed Orders).

(b) In the case of an agreed order, action taken at the conference shall be recorded in an appropriate order by the executive secretary.

§213.17. *Agreed Orders.* Whether or not proceedings have been commenced under §213.8 of this title (relating to Commencement of Disciplinary Proceedings and Filing of Complain) or there is a prehearing conference under §213.16 of this title (relating to Prehearing Conference), the executive secretary may, at any time, enter into an agreed order with any person containing such terms and conditions as the executive secretary may deem reasonable and necessary. Said agreed orders shall not be final and effective until the board members, at a scheduled board meeting, vote to accept the proposed agreed order. If the charge(s) is not resolved at the prehearing conference, or if the board votes to reject the proposed agreed order, then the board has the right to institute a formal hearing governing the

same matter.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8803950

Louise Sanders  
Executive Secretary  
Board of Nurse Examiners

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 835-4880

## Chapter 223. Fees

### • 22 TAC §223.1

The Board of Nurse Examiners proposes an amendment to §223.1, concerning fees. This amendment is proposed as a direct result of an increase in the examination fee charged by the National Council of State Boards of Nursing, Inc. This proposed fee increase will also affect RN's who are paying delinquent registration fees as provided in the nurse practice act.

Louise Sanders, executive secretary, 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.

Ms. Sanders also has determined that for each year of the first five years the section as proposed is in effect there will be no public benefit anticipated as a result of the fee increase; only candidates taking the NCLEX-RN, February 1989, and thereafter and RN's paying late reregistration fees will be affected. The anticipated economic cost to individuals who are required to comply with the section as proposed will be a \$10 increase to RN candidates and RN's paying late reregistration fees in February 1989, and thereafter.

Comments on the proposal may be submitted to Louise Sanders, Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4514, §1, and Articles 4526 and 4527 which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it; to charge a late fee for re-registrations received after the expiration date and to establish reasonable and necessary fees for the administration of its functions.

§223.1. *Fees.* The Board of Nurse Examiners has established [shall establish] reasonable and necessary fees for the administration of its functions in the following amounts [not to exceed] :

(1) admission fee to examination - \$70. [\$60];

(2)-(12) (No change.)

(13) late fee for reregistration:

(A) less than 90 days-\$35.  
[\$30.];

(B) more than 90 days-\$70.  
[\$60.].

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8803949 Louise Sanders  
Executive Secretary  
Board of Nurse Examiners

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 835-4880

## Part XXII. Texas State Board of Public Accountancy Chapter 505. The Board

### • 22 TAC §505.10

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Public Accountancy or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Public Accountancy proposes the repeal of §505.10, concerning board committees. The repeal of this section will allow for a new §505.10, concerning board committees. The repeal of this section will allow for a new section that will provide guidelines for the board, of areas of responsibility, composition, and appointment of various committees.

Bob E. Bradley has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to allow for the adoption of a new section that will set forth proper guidelines, areas of responsibility and, composition of various appointed board committees.

Request for comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding board committees.

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

adopt.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804015 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 450-7066

The Texas State Board of Public Accountancy proposes new §505.10, concerning board committees. The new section will provide guidelines for the board of areas of responsibility, composition, and appointment of various committees.

Bob E. Bradley, 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.

Mr. Bradley 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 proper guidelines, areas of responsibility, and composition of various appointed board committees will be set forth.

Request for comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding board committees.

**§505.10. Board Committees.**

(a) Committee appointment by chairman. the board chairman may appoint standing committees as deemed necessary to assist in carrying out the functions of the board under the provisions of the Public Accountancy Act of 1979, as amended. The chairman may establish other ad hoc committees and appoint members as appropriate. The board chairman shall be an exofficio member of each committee and chairman of the executive committee.

(b) Committee actions. The actions of the committees are recommendations only and are not binding until ratification by the full board at a regularly scheduled meeting.

(c) Committee meetings.

(1) Committee meetings shall be held at the call of the committee chairman, and a report by the committee chairman shall be made to the board at its next regularly scheduled meeting, or in the absence of the committee chairman, by another board member serving on the committee.

(2) Committee meetings shall be open to the public in accordance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17, unless the committee

chairman adjourns into executive session for purposes prescribed in the Open Meetings Act or to discuss confidential information as set out in the Public Accountancy Act of 1979, as amended.

(d) Vacancies. If for any reason a vacancy occurs on a committee, the board chairman shall appoint a replacement in accordance with subsection (a) of this section.

(e) Standing committee structure and charge to committees. The standing committees shall consist of the following individuals and shall be charged with the following responsibilities.

(1) The continuing education committee shall be composed of at least two board members and at least two nonboard members. The committee shall make recommendations regarding reporting and attendance requirements (to include staff and facility support functions), disciplinary actions relating to continuing education programs, changes to board rules, and reporting forms, and continuing education procedures.

(2) The enforcement committee shall be composed of at least two board members and at least two nonboard members. The committee shall study complaints from any source involving violations of the Public Accountancy Act of 1979, as amended, or behavioral standards within the rules of professional conduct, and shall make recommendations to the board as appropriate.

(3) The entry and reentry screening committee shall be composed of at least two board members. The committee shall review and make recommendations regarding applications for licensure or relicensure after a license has lapsed or been terminated by board action, and applications under The Public Accountancy Act of 1979, §13, and §14, as amended.

(4) The examination committee shall be composed of at least two board members. The committee shall make recommendations regarding administration, security, and other aspects of the Uniform Certified Public Accountant Examination in Texas.

(5) The executive committee shall be composed of the board chairman, vice-chairman, secretary, and treasurer, and may also include as an exofficio member, any other board member appointed by the chairman and approved by the board. The functions of the executive committee shall be to advise, consult with, and make recommendations to the board as requested by the board chairman.

(6) The long-range planning committee shall be composed of the board's vice-chairman to act as a committee chairman, at least one additional board member, and at least three nonboard members. The committee shall make recommendations to the board regarding amendments to the

Public Accountancy Act of 1979, as amended; responses/positions relating to papers, reports, and other submissions from national associations or boards; and special issues.

(7) The committee on relations with the National Association of State Boards of Accountancy (NASBA) shall be composed of current and former board members who presently serve on NASBA committees or who are officers or directors of NASBA. The committee is charged with serving in a liaison capacity between the board and NASBA (and its member boards).

(8) The technical standards review committee shall be composed of at least two board members and at least three nonboard members with recognized experience in industry, government, and education. The committee shall study complaints from any source involving suspected violations of technical standards, and shall make recommendations to the board as appropriate.

(9) The constructive enforcement committee shall be composed of at least one board member and any number of nonboard members. The committee is charged with the investigation of complaints forwarded from either the technical standards review committee or the enforcement committee, preparing recommendations as requested concerning each complaint by the appropriate board committee, contacting the board when violation of the Public Accountancy Act of 1979, as amended, or the rules of professional conduct are observed, and following up on board orders to insure that the licensee adheres to any sanctions prescribed by the board.

(f) Ad hoc advisory committees. Ad hoc advisory committees may be established by the board chairman and members appointed as appropriate.

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8804016

Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 450-7066

## Chapter 511. Certification as CPA

### Certification

#### • 22 TAC §511.164

The Texas State Board of Public Accountancy

proposes an amendment to §511. 164, concerning the proper name to appear on a licensee's certificate as a certified public accountant. The amendment will allow the applicant to opt to not use words or abbreviations such as "Jr." or the "III" on his certificate.

Bob E. Bradley, 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.

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow practitioners of public accountancy to practice in their legal name less such abbreviations as "Jr." or the "III." 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding the use of the legal name of applicant's for certification as public accountants.

**§511.164. Names on Certificates.** A licensee's certificate shall be issued in his or her legal name, as it appears on the [his] birth certificate or as changed by court order or marriage license. At the applicant's option, words, or abbreviations such as "Jr" or "III" do not have to appear on an applicant's certificate or the board's records even though such words or abbreviations are part of the applicant's legal name.

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

Issued in Austin, Texas, on April 11, 1988.

TRD-8803963

Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption: May 27, 1988

For further information, please call: (512) 450-7066

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 3. Income Assistance Services

##### Subchapter D. Expedited Services

#### • 40 TAC §3.403, §3.404

The Texas Department of Human Services

(DHS) proposes amendments to §§3. 403, 3.404, 3.706 and 3.902, concerning time limits for providing food stamp benefits and eligibility criteria for expedited benefits in the Food Stamp Program and transferring resources and persons with countable income in the Aid to Families with Dependent Children (AFDC) Program. Sections 3.403, 3.404, and 3.902 are amended to comply with federal regulations. Section 3.706 is amended because state law no longer states that applicants are ineligible if they transfer a resource within the last five years. The requirements therefore have been made consistent with food stamp policy. Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed amendments to §§3.403, 3.404, and 3.706 are in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

Mr. Packard has determined that for the first five-year period the proposed amendments to §3.902 will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the amendments will be in effect is an estimated additional cost of \$9,815 in FY 1988; \$65,949 in FY 1989; \$71,824 in FY 1990; \$77,438 in FY 1991; and \$81,143 in FY 1992. There will be no fiscal implications for local governments or small businesses.

Mr. Packard has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be compliance with federal regulations, consistency of food stamp and AFDC policy, availability of AFDC benefits to more needy persons, and increased benefits to some current clients. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-282, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

**§3.403. Time Limits.** [The] DHS must provide food stamp benefits for households eligible for expedited services according to the processing standards stipulated in 7 Code of Federal Regulations §273.2(i)(3). Exception: Rather than providing benefits within five days after the application date as stipulated in §273.2(i)(3)(i), DHS provides benefits for households referenced in §273.2(l)(1) [§273.2(i)(3)(i)] in immediate need of food by the close of business on the first day after the date of application.

**§§3.404. Eligibility Criteria for All Applicants Except Migrant and Seasonal Farm Workers.** Applicants for food stamps are entitled to expedited services if they meet the criteria in 7 Code of Federal Regulations §273. 2(i)(1).

(1) their countable liquid resources are \$100 or less, and

(2) their countable gross monthly income is less than \$150].

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8804019

Marlin W. Johnston  
April 19, 1988  
Texas Department of  
Human Services

Earliest possible date of adoption: July 1, 1988

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

## Subchapter G. Resources

### • 40 TAC §3.706

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

#### §3.706. *Transferring Resources.*

(a) Aid to families with dependent children. Households [Applicants] are ineligible if within 3 months before application or anytime after certification [the last five years] they transferred a countable resource for less than its fair market value so that they could qualify for AFDC or increase their grant. The length of denial is based on the value of the transferred resource [equal to the time the individual's needs would have been met by the resource].

(b) (No change.)

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8804020

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption: July 1, 1988

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

## Subchapter I. Income

### • 40 TAC §3.902

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

#### §3.902. *Types.*

(a) Aid to families with dependent children. [The] DHS counts the following as income:

(1)-(17) (No change.)

(18) disqualified legal parent. DHS counts the income of a disqualified legal parent [in payee only cases].

(19)-(30) (No change.)

(b) Aid to families with dependent children. Exclusions from income for AFDC are

(1) diverted income. DHS diverts income for all persons allowed [as specified] in 45 Code of Federal Regulations §233.20(a)(3)(ii)(C) [for the following people living in the home who are not applying for or receiving AFDC, and are not sanctioned for failing to comply with a program requirement:

[(A) the individual with income;

[(B) the individual's spouse;

[(C) the individual's legally dependent children].

(2)-(14) (No change.)

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

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8804021

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption: July 1, 1988

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

## Chapter 5. Medicaid Programs for Aliens

### Subchapter A. Medicaid Benefits for Temporarily Legalized Aliens

#### • 40 TAC §5.1002, §5.1004

The Texas Department of Human Services (DHS) proposes new §5.1002, §5.1004, §5.2002, and §5.2004, concerning Medicaid coverage for aliens. The department is establishing new Chapter 5, Medicaid Programs for Aliens. For aliens lawfully admitted for temporary residence, Subchapter A provides coverage for emergency medical conditions, for pregnant women, and for children. For aliens illegally residing in the United States, Subchapter B provides Medicaid coverage for emergencies, including labor and delivery. Medicaid coverage for aliens is the result of the Omnibus Budget Reconciliation Act of 1986 and the Immigration Reform and Control Act of 1986.

Brian Packard, associate commissioner for

budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government is an estimated additional cost of \$673,506 in FY 1988; \$1,193,471 in FY 1989; \$1,252,747 in FY 1990; \$1,309,796 in FY 1991; and \$1,393,218 in FY 1992. There is no anticipated effect on local government or small businesses.

Mr. Packard also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the availability of Medicaid benefits to needy aliens requiring emergency medical services. Hospitals also will be eligible to be reimbursed for their services. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-517, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The new sections are proposed 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.

§§5.1002. *Legal Basis. Aliens lawfully admitted for temporary residence in the United States under §245A of the Immigration and Nationality Act are eligible for Medicaid coverage if they are otherwise qualified for Medicaid and*

(1) have an emergency medical condition,

(2) are pregnant, or

(3) are under age 18.

§5.1004. *Eligibility Requirements. Applicants for medical coverage must meet the eligibility requirements in Chapter 2 of this title (relating to the Medically Needy Program). Section 2.1006(a) of this title (relating to Requirements for Application) does not apply.*

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8804022

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption: June 17, 1988

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

Subchapter B. Medicaid  
benefits for Aliens Not  
Legally Residing in the U.S.

• 40 TAC §5.2002, §5.2004

The new sections are proposed 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.

§5.2002. *Legal Basis.* Aliens not lawfully admitted for permanent residence in the United States are eligible for Medicaid coverage if they have an emergency medical condition and are otherwise qualified for Medicaid.

§5.2004. *Eligibility Requirements.* Applicants for medical coverage must meet the eligibility requirements in Chapter 2 of this title (relating to the Medically Needy Program). Section 2.1006(a) of this title (relating to Requirements for Application) does not apply.

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8804023

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption: June 17, 1988

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

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# Adopted Sections

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

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

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

#### Conservation Rules and Regulations

##### 16 TAC §3.14, §3.58

The Railroad Commission of Texas adopts amendments to §3.14 and §3.58 with changes to the proposed text published in the February 16, 1988, issue of the *Texas Register* (13 TexReg 825). The amendments are adopted in order to prevent the needless plugging of wells with future potential, to increase the plugging of abandoned wells that threaten to pollute the state's fresh water supplies, to facilitate changes of operator on particular properties, and to stimulate production activity statewide.

There are three substantive amendments to §3.14. The first change provides that all wells may remain inactive for a period of one year before plugging operations must commence or the wells are otherwise brought into compliance with commission rules. The second change allows operations of inactive wells to pay a \$100 re-entry permit fee for an inactive wellbore and receive a one-year extension of the plugging deadline. The text of this amendment as adopted has been changed nonsubstantively from the initial proposal in response to public comments. The permit is renewable at the end of the year. Any well permitted under this new method must be properly maintained to prevent pollution of fresh water or the permit will be revoked. The section still retains the alternative of bonding inactive wells. The third change to §3.14 creates the rebuttable presumption that the last operator appearing on a commission-approved producer's transportation authority and certificate of compliance (P-4) is the operator responsible for proper plugging of all wells on that particular property.

The amendments to §3.58 clarify commission procedures with regard to the P-4 form. The amendments require that P-4 forms be filed directly with the Austin office. The amendments also provide that an operator can not unilaterally cancel a P-4, thereby leaving no operator on commission records certifying to compliance with the conservation laws of the State of Texas, and rules and orders of the commission. Further, the amendments clarify the procedure for obtaining temporary transportation authority under certain circumstances, as well as describe the procedure an

operator must follow when attempting to be designated as the operator of a property without written approval of the previous operator. The text of these amendments as adopted has been changed nonsubstantively from the initial proposal in response to public comments.

Dyne Oil and Gas, Inc., the Permian Basin Petroleum Association, Rust Oil Corporation, the Texas Independent Producers and Royalty Owners Association, the Texas Mid-Continent Oil and Gas Association, and Rex White filed comments in favor of the proposal. The Texas Independent Producers and Royalty Owners Association and Mr. White suggested several nonsubstantive changes to several portions of the text to provide greater clarity. Accordingly, the commission has changed several portions of the proposed text in response to these suggestions. Yvonne C. Harvey and Tommy Scott filed comments expressing concern that providing operators with an easier method of obtaining plugging extensions would make it easier for those operators to prevent their leases from expiring. The commission believes this concern is unwarranted since the plugging rules operate separately and independently from the provisions of leases entered into by private parties. The National Park Service filed comments in support of the proposal, but requested that the new method of obtaining an extension of the plugging deadline not be available for thirteen units of the National Park System. The commission believes that any changes in the plugging rules must be applied even-handedly to the operators of all wells in the State of Texas.

The amendments to §3.14 are adopted under the authority of the Texas Natural Resources Code, Title 3, Subtitle A §81.052, and Subtitle B §85.202 and §91.101, which authorize the Railroad Commission of Texas to adopt and enforce rules relating to the operation, abandonment, and proper plugging of wells. The amendments to §3.58 are adopted under the authority of the Texas Natural Resources Code, Subtitle B §85.042, authorizing the Railroad Commission of Texas to promulgate rules necessary to prevent the transportation and handling of oil and gas in violation of the conservation laws of the State of Texas and rules or orders of the commission.

##### §3.14. Plugging.

(a) (No change.)

(b) Plugging report and commencement of operations.

(1) A plugging record shall be completed, duly verified, and filed, in duplicate, on the appropriate form in the district office within 30 days after plugging operations are completed. A cementing report made by the party cementing the well shall

be attached to, or made a part of, the plugging report.

(2) Plugging operations on each dry or inactive well must be commenced within a period of one year after drilling or operations ceased and shall proceed with due diligence until completed. For good cause, a reasonable extension of time in which to start the plugging operations may be granted pursuant to the following procedures;

(A) the Oil and Gas Division director or the director's delegate may administratively grant an extension of time if the well is not a pollution hazard; and:

(i) provided that the well is in compliance with all other conservation laws and rules of the commission, the operator intends to use the wellbore, pays the proper fee as provided in §3.76 of this title (relating to fees required to be filed) (Statute Rule 78) and obtains a permit for this re-entry; or

(ii) the operator posts a performance bond or other form of financial security in an amount acceptable to the staff to ensure that the commission will not have to plug the well with state funds; or

(iii) the operator has presented a viable plan for using the well in a secondary or tertiary recovery project within a reasonable time.

(B)-(C) (No change.)

(c) General plugging requirements.

(1) In plugging wells, it is essential that all formations bearing usable quality water, oil, gas, or geothermal resources be protected. Proper plugging is the responsibility of the operator of the well. For purposes of plugging responsibility, the commission will presume that the operator designated on the most recent commission-approved producer's transportation authority and certificate of compliance was the person responsible for the physical operation and control of the well at the time the well was abandoned or ceased operation. This presumption may be refuted at a hearing called for the purpose of determining plugging responsibility. All cementing operations during plugging must be performed under the direct supervision of the operator or his authorized representative, who shall not be an employee of the service or



cementing company hired to plug the well. Direct supervision means supervision on location at the well site.

(2)-(11) (No change.)

(d)-(i) (No change.)

**§3.58. Oil, Gas, or Geothermal Resource Operator's Reports.**

(a) Producer's Transportation Authority and Certificate of Compliance.

(1) Each operator who is a producer of crude oil, natural gas, or geothermal resources is required to file with the Austin office a producer's transportation authority and certificate of compliance for each of his producing properties certifying that the operator has complied with the conservation laws and the oil, gas, and geothermal resources conservation orders, rules, and regulations of the commission in respect to each property. When this report is filed, the Oil and Gas Division will review the report for completeness and accuracy and, when approved, this report authorizes a transporter (whether the operator or someone else) to transport the oil, gas, or geothermal resources from such property.

(2) The producer's transportation authority and certificate of compliance shall bind the operator until transferred on commission records to another operator.

(3) The appropriate district office or the Austin office may grant temporary authority for an operator to use a transporter not authorized for a particular property in order to take care of production and prevent waste. The operator shall secure such temporary authority in writing from the appropriate district office or the Austin office before the oil is moved. In an emergency situation the operator may secure such temporary authority verbally but shall notify the district office in writing within 10 days after the oil is moved. An emergency situation exists when oil must be moved off a lease because it poses an imminent threat to the public health and safety, or when the threat of waste is imminent. The operator shall also furnish copies of such authorization or notification to the regular transporter and to the temporary transporter.

(4) If an applicant wishes to assume operator status for a property, but is unable to obtain the signature of the previous operator on the producer's transportation authority and certificate of compliance, the applicant must file with the Oil and Gas Division in Austin an explanatory letter and legal documentation of the applicant's right to operate the property. Prior to approval of such an application, the Office of the General Counsel will notify the last known operator of record, if such operator's address is available, affording such operator an opportunity to protest.

(b) Monthly Producer's Report (Oil and Geothermal Resources). For each calendar month, each operator who is a producer

of crude oil or geothermal resources shall file with the commission the required form for each of his producing leases. On or before the last day of the month subsequent to the period or of the report, such operator shall file an original and one copy of each such form, the original to be filed in the Austin office, and one copy with the transporter taking the oil or geothermal resources from the lease.

(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 April 18, 1988.

TRD-8803948

James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 9, 1988

Proposal publication date: February 12, 1988

For further information, please call: (512) 463-7149

## Subchapter H. Tariffs and Schedules.

### 16 TAC §§5.145, 5.148

The Railroad Commission of Texas adopts amendments to §§5.145, 5.148, 5.423, and 5.424, and new §§5.581-5.590 (comprising new Subchapter Z), concerning prescribed rates; collective applications; applications to establish or change rates; unprotested proceedings; and base rates, deviations, and suspensions; respectively. New §§5.533 and 5.586-5.589 are adopted with changes to the proposed text published in the November 27, 1987, issue of the *Texas Register* (12 TexReg 4447). The amendments to §§5.145, 5.148, 5.423, 5.424, 5.581, 5.582, 5.584, 5.585, and 5.590 are adopted without changes, and will not be republished.

The commission adopts the proposed sections in order to effectively allow general commodities common carriers, and the contract carriers providing similar service, to adjust rates for transportation services with minimal difficulty, while prohibiting and preventing predatory pricing. The change in new §5.588(d) will clarify the burden of proof for interim commission action on suspension petition.

The new sections and amendments will implement the rate simplification and flexibility provisions of Texas Civil Statutes, Article 911(b), §4(a)(4) and (5). The amendments provide for the nonapplicability of certain procedural structures to rate applications and procedures established in the newly amended statute, and to allow carrier associations to participate in the new procedures. The new sections set up the substantive standards and procedural requirements for annual base rate review proceedings, deviation requests, and suspension petitions. The new sections also clarify the applicability of the new system to contract carriers, the effect of rate changes on deviations, and the permissibility and effect of specific rates and charges.

Several comments were received in response to the proposal. Comments were received in favor of and in opposition to the provision in §5.583 allowing contract carriers full opportunity to deviate from base rates. Other comments suggested that time deadlines be established, that the tone of the rules does not reflect the statutory mandate, that the commission's review of suspension petitions should be more strict, that specific grounds for the imposition of administrative penalties should be stated, and that the effective date of deviations be delayed until after publication.

The Oil & Gas Well Supply Traffic Association, Inc. commented generally in favor of the proposed sections, with suggestions. Commenting in opposition to all or part of the proposal were Phillips 66 Company, and the Common Carrier Motor Freight Association, Inc.

The commission disagrees with the bulk of the comments in opposition to the proposed sections. A deadline for handling suspension petition proceedings is not feasible, especially in view of delays which can be occasioned by one or both parties. Complete due process should not be sacrificed for expediency, but the commission has committed to the expedited processing of suspension petitions within that constraint. The commission also disagrees that the tone of the rules is too strict. Questions of semantics are not sufficient to overcome the clear meaning of the rules. Deviations will be allowed, and suspension petitions will be handled, in conformance with the provisions of the new legislation. The commission believes that the strict definition of the circumstances wherein administrative penalties are appropriate would be unnecessarily restrictive of the commission's discretion, and may prevent the commission from reacting to particular and peculiar circumstances. Finally the commission disagrees with the recommendation that the effective date of deviations be delayed until after publication. The statute requires that deviations be effective five days after filing; the commission does not agree that filing can be interpreted as after review and publication.

The amendments are adopted under Texas Civil Statutes, Article 911b, §4(a)(4) and (5), which provide the commission with the authority to establish base rates and charges for the transportation of general commodities by motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing the transportation of specialized commodities), to allow deviations from those base rates and charges, and to consider suspension petitions filed in response to those deviations.

**§5.145. Prescribed Rates.** Rates applicable to motor carrier(s) under the Motor Carrier Act and to motor bus companies under the Motor Bus Act are effective and lawful only when prescribed by order of the commission. Except as may be permitted by §5.582 of this title (relating to Deviations from Base Rates), no motor carrier or motor bus company shall charge or apply any rates not prescribed and effective by order of the commission.

**§5.148.**

*Collective Applications.* Applications to establish

change rates, deviation requests, and petitions to suspend deviations from commission-prescribed base rates and charges, may be submitted and prosecuted, or opposed by an authorized carriers association on behalf of a motor carrier(s) pursuant to an agreement which has been approved by the commission under §5.315 of this title (relating to Approval of Agreements Between Carriers Concerning Group Representation). Applications, protests, or interventions in opposition filed by an association must disclose, by reference to documents on file with the commission or otherwise, on whose behalf the application, protest, intervention, deviation request or suspension petition is filed.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804003      Jim Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 10, 1988

Proposal publication date: November 27, 1987

For further information, please call: (512) 463-7149

## Chapter 5. Transportation Division

### Subchapter P. Commercial Zones

#### • 16 TAC §5.294

The Railroad Commission of Texas adopts an amendment to §5.294, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4057).

The amendment is adopted because the Cities of Denton, Corinth, Hickory Creek, and Lake Dallas are adjacent to, and commercially a part of, the Cities of Dallas and Fort Worth.

The amendment as adopted adds the Cities of Denton, Corinth, Hickory Creek, and Lake Dallas to the Dallas and Fort Worth commercial zones. The amendment will provide a larger number of available for-hire carriers to transport commodities between the Cities of Denton, Corinth, Hickory Creek, and Lake Dallas on the one hand, and the existing commercial zones of Dallas and Fort Worth on the other.

Many comments were received both in favor of and in opposition to the amendment. The supporting comments generally related to the commercial interdependence and economic integration of the Denton area and Dallas, Fort Worth and other points within the existing commercial zones; the fact that Denton area businesses operate at a competitive disadvantage to those in the Dallas/Fort Worth commercial zones because of the cost of transportation, flexibility in scheduling, deliv-

ery services, and the number of available carriers; the positive effect that the amendment would have on the growth and economic development of the Denton area; and the interaction between the Denton area and the Dallas/Fort Worth commercial zones in terms of advertising and marketing efforts, worker commuting patterns, student populations, shopping, and entertainment.

The opposing comments generally related to there being a lack of facts in support of the proposal; the economic circumstances involved in a 1983 determination by the commission that the Denton area should not be included in the Dallas and Fort Worth commercial zones; promotional materials prepared by the Denton Chamber of Commerce asserting Denton's independence from Dallas and Fort Worth; assertions that the expansion of the present commercial zones would increase the number of uncertificated specialized motor carriers operating within such commercial zones; and assertions that the expansion would seriously impair the services and operations of regulated common carriers presently operating to, from and within such areas.

Those making comments in favor of the amendment included the Dallas Partnership, North Texas Commission, Denton Chamber of Commerce, North Central Texas Council of Governments, Texas Municipal League, and Denton Board of Realtors, Inc.

Those making comments opposing the amendment included Southwest Warehouse and Transfer Association, Inc., and Texas Shippers for Fair, Uniform and Non-Discriminatory Truck Rates.

The Railroad Commission of Texas disagrees with the opposing comments in that the daily two-way flow of goods, services, and people between the four cities and the Dallas/Fort Worth area support the conclusion that the Denton area and the Dallas/Fort Worth commercial zones are commercially integrated. The rapid growth of this area as confirmed by the North Texas Council of Governments, as well as the location of new businesses in the area, shows that there has been a substantial change in the Denton area since 1983. The materials distributed by the Denton Chamber of Commerce are promotional in nature and cannot be relied upon to fully reflect the economic and commercial facts which are pertinent to this amendment. Any problems raised in regard to controlling the number of uncertificated carriers operating within commercial zones are best addressed by the enforcement tools presently available. The predicted diversion of traffic from regulated carriers was either speculative in nature or so minuscule as to be no hindrance to zone expansion.

The amendment is adopted under Texas Civil Statutes, Article 911b, §1(g), which authorize the commission to prescribe commercial zones adjacent to and commercially a part of any specified incorporated municipality.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804001      Jim Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 10, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 463-7149

## Subchapter U. General and Special Rules of Practice and Procedure

#### • 16 TAC §5.415

The Railroad Commission of Texas adopts an amendment to §5.415, without changes to the text as proposed in the December 25, 1987, issue of the *Texas Register* (12 TexReg 4882).

The amendment requires all applications to either be accepted for filing within 28 days of receipt, or that notice be sent to the applicant that the application is insufficient. This requirement will apply only to applications for new authority.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6252-13b.1, which provide the commission to adopt rules regarding procedures for processing permits.

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

Issued in Austin, Texas, on April 12, 1988.

TRD-8804000      Jim Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 10, 1988

Proposal publication date: December 25, 1987

For further information, please call: (512) 463-7149

#### • 16 TAC §5.423, §5.424

The amendments are adopted under Texas Civil Statutes, Article 911b, §4(a) (4) and (5), which provide the commission with the authority to establish base rates and charges for the transportation of general commodities by motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing the transportation of specialized commodities), to allow deviations from those base rates and charges, and to consider suspension petitions filed in response to those deviations.

*§5.423. Applications to Establish or Change Rates.*

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

(c) Applicability. The provisions of this section shall not apply to annual review

of base rates or charges held pursuant to §5.586 of this title (relating to Procedures for Annual Base Rate Adjustment Hearings), deviation procedures held pursuant to §5.587 of this title (relating to Base Rate Deviation Procedures), or suspension procedures held pursuant to §5.588 of this title (relating to Procedures for Deviation Suspension Proceedings).

**§5.424. Unprotected Proceedings.**

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

(d) The provisions of this section shall apply only to applications filed pursuant to the provisions of §5.423 of this title (relating to Applications to Establish or Change Rates).

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804004      Jim Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 10, 1988

Proposal publication date: November 27, 1987

For further information, please call: (512) 463-7149

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**• 16 TAC §5.450**

The Railroad Commission of Texas adopts an amendment to §5.450, with changes to the text as proposed in the December 25, 1987, issue of the *Texas Register* (12 TexReg 4882).

The amendment provides that if an application for new motor carrier or motor bus authority is not decided within 180 days of the filing of the application, the applicant may appeal directly to the commission to determine whether good cause exists for the length of the process. If no good cause exists, the application fee will be reimbursed under terms of the statute. Good cause specifically includes that the delay is caused in part by another entity, including a protestant to the application.

No comments were received regarding adoption of the amendment.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, which requires all state agencies which issue permits to adopt rules regarding procedures for processing permits.

**§5.450. Rendering of Final Decision or Order.**

(a) The final decision or order must be rendered within 60 days after the date the hearing is finally closed. In a contested case heard by other than a majority of the commissioners, the agency may prescribe a longer period of time within which the final order or decision of the agency shall be issued. The extension, if so prescribed, shall be announced at the conclusion of the hearing.

(b) The final order in an application for new motor carrier or motor bus authority must be rendered within 180 days of the filing of a complete application, unless good cause exists for exceeding the deadline. The agency shall have good cause to exceed the deadline if:

(1) the number of applications to be processed exceeds by 15% or more the number of permits processed in the same calendar quarter the preceding year;

(2) the agency must rely on another public or private entity for all or part of its permit processing, and the delay is caused by the other entity, including delay caused by the protest of an application by another public or private entity; or

(3) any other conditions exist giving the agency good cause for exceeding the period established for processing a permit.

(c) If a final order in an application for new authority has not been rendered 180 days after the filing of a complete application, the applicant may appeal directly to the commission for determination whether good cause exist for exceeding that time period. The appeal shall be made by filing a motion with the commission, with service to all parties pursuant to §5.408 of this subchapter (relating to Service of Pleadings in Nonrulemaking Proceedings). If the commission determines that good cause exists for exceeding the time period, or that the time period has not been exceeded, it need no action. If the commission determines that good cause does not exist for exceeding the time period, and that the time period has been exceeded, the applicant shall be entitled to a reimbursement of the application fee, or may have its application expedited by giving it the highest priority for completion.

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

Issued in Austin, Texas, on April 12, 1988.

TRD-8803999      Jim Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 10, 1988

Proposal publication date: December 14, 1987

For further information, please call: (512) 463-7149

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**Subchapter Z. Base Rates,  
Deviations, and Suspensions.**

**• 16 TAC §§5.581-5.590**

The new sections are adopted under Texas Civil Statutes, Article 911b, §4(a)(4) and (5), which provide the commission with the authority to establish base rates and charges for the transportation of general commodities by

motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing the transportation of specialized commodities), to allow deviations from those base rates and charges, and to consider suspension petitions filed in response to those deviations.

**§5.583. Contract Carrier Deviations.** A contract carrier may deviate under the provisions of §5.582 (relating to Deviations from Base Rates) and the procedures in §5.587 (relating to Base Rate Deviation Procedures).

**§5.586. Procedures for Annual Base Rate Adjustment Hearings.**

(a) The commission shall institute a base rate adjustment hearing in accordance with §5.581(a) of this title (relating to Annual Review of Base Rates and Charges) within 12 months of the date of the notice of the previous base rate adjustment hearing. The initial annual base rate adjustment hearing shall be initiated prior to September 30, 1988.

(b) The commission may require motor carriers to produce relevant revenue, expense and other data necessary for the commission to determine whether the existing base rates and charges are just and reasonable, and cover carriers' actual operating costs incurred in transporting involved shipments plus a reasonable margin.

(c) All affected motor carriers, shippers, associations, and any other person with an administratively cognizable or justiciable interest shall be allowed to become a party of record in the annual base rate adjustment hearing. Parties of record shall not be designated as applicants, protestants, intervenors, or proponents. The commission shall be responsible for all original transcript charges. All parties of record shall be allowed to present and cross examine witnesses, subject to any limitation by the presiding examiner permissible under the provisions of Subchapter U of this chapter (relating to General and Special Rules of Practice and Procedure). Subject to the provisions of this section, the annual base rate adjustment hearings shall be held in accordance with the provisions of Subchapter U of this chapter (relating to General and Special Rules of Practice and Procedure) and shall be determined in accordance with the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

**§5.587. Base Rate Deviation Procedures.**

(a) The procedures provided in this section govern deviations proposed under §5.582 of this title (relating to Deviations from Base Rates).

(b) Any carrier(s) proposing to deviate from an established base rate or charge must file a deviation request with the director on a form promulgated by the director, setting forth the name, address and telephone number of the applicant carrier(s); the tariff and item number thereof

affected by the proposed deviation; the proposed percentage of deviation from the base rate or charge; the percentage of deviation currently applicable to the base rate or charge, if any; the origins, destinations and commodities for which the proposed deviation will apply, if any; and the circumstances or conditions under which the deviation is proposed to be effective, if any. The deviation request shall be accompanied by a filing fee of \$25. A deviation request shall be considered filed pursuant to the provisions of §5.404 of this title (relating to Filing of Documents).

(c) No deviation request may:

(1) include the name of 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 been published in the weekly notice pursuant to subsection (g) of this section, which is applicable to the same traffic.

(d) Upon filing of a deviation request by a carrier(s), the director shall determine whether the carrier(s) is permitted to file a deviation request under §5.582(a) of this title (relating to Deviations from Base Rates); whether the proposed deviation is permissible under §5.582 of this title (relating to Deviations from Base Rates); and whether the proposed deviation meets the requirements of this section. If the proposed deviation meets the requirements of this subsection, the proposed deviation shall be approved for publication by the director. The director shall mail written notice of the approval to the address specified in the request pursuant to subsection (b) of this section, within two working days of filing.

(e) If the proposed deviation does not meet the requirements of subsection (d) of this section, the director shall attempt to notify the applicant carrier(s) of the rejection by telephone within two working days of the filing of the deviation. The director shall mail written notice of the rejection to the address specified in the request pursuant to subsection (b) of this section, within two working days. The written rejection of the proposed deviation shall include the reason for the rejection.

(f) If the proposed deviation is approved for publication, it shall be effective five days after filing.

(g) All deviations approved for publication shall be published in a weekly notice of deviation.

#### ***§5.588. Procedures for Deviation Suspension Proceedings.***

(a) Any affected motor carrier(s), shipper, receiver or other person with an administratively cognizable or justiciable interest, including the commission on its own motion, may file a petition to suspend a deviation which has been filed pursuant to §5.587 of this title (relating to Base Rate Deviation Procedures). A petition for suspension must be filed with the commission

within 15 days from the date of the weekly notice in which the subject deviation appears. A petition for suspension shall be accompanied by a filing fee of \$25.

(b) A suspension petition shall be filed with the director and shall set forth:

(1) the name of the complaining person(s);

(2) an identification of the subject deviation(s); and

(3) a statement of the grounds asserted for the sought suspension.

(c) The petitioner must serve the suspension petition on the respondent carrier(s). Upon receipt of the suspension petition the director shall issue a notice of hearing compelling the petitioner(s) and the respondent carrier(s) to appear at a designated time and place.

(d) A suspension petition shall be posted pursuant to the Open Meetings Act, Texas Civil Statutes, Article 6252-17, for commission consideration of an interim order at the next regularly scheduled commission conference following the hearing on the suspension proceeding, or as early thereafter as is reasonably possible.

(e) If the respondent carrier(s) fail to comply with an order to produce records, documents or other evidence issued pursuant to §5.584(c) of this title (relating to Suspension of Deviations), such failure shall constitute prima facie proof that the deviation results in predatory pricing, and the commission may suspend the deviation.

(f) The commission shall suspend the deviation on an interim basis if it is shown by clear and convincing evidence that the deviation results in predatory pricing as defined in §5.584(b) of this title (relating to Suspension of Deviations). The commission may also impose any other sanction allowed by §5.584(d) of this title (relating to Suspension of Deviations).

(g) The final disposition of any suspension proceeding shall be in accordance with all applicable contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(h) A deviation may be withdrawn by the carrier(s) only after a petition for suspension has been filed. After withdrawal, the deviation will no longer be effective. The commission may order any relief provided for in §5.584(d) of this title (relating to Suspension of Deviations) if the commission determines that the withdrawn deviation resulted in predatory pricing.

***§5.589. Publication of Deviations.*** All tariffs which include base rates and charges adopted pursuant to §5.581 of this title (relating to Annual Review of Base Rates and Charges) shall be supplemented no less frequently than monthly to reflect all deviations filed with the commission, as well as those deviations which have been sus-

pending by order of the commission.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804002

Jim Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: May 10, 1988

Proposal publication date: November 27, 1987

For further information, please call: (512) 463-7149

## **TITLE 22. EXAMINING BOARDS**

### **Part XXII. Texas State Board of Public Accountancy**

#### **Chapter 501. Professional Conduct**

##### **Professional Standards**

##### **• 22 TAC §501.21**

The Texas State Board of Public Accountancy adopts the repeal of §501.21, without changes to the proposed text published in the March 4, 1988, issue of the *Texas Register* (13 TexReg 1130).

The repeal of this section will allow for the adoption of a new section with a more concise definition of the level of competence to be met by the certified public accountant/public accountant.

The repeal of this section will allow for the adoption of a new section that will define the prevailing position of the accounting profession in regards to the level of competence required in completion of engagements by certified public accountants/public accountants.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to professional competence in the public accounting profession.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8803966

Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: May 9, 1988

Proposal publication date: March 4, 1988

The Texas State Board of Public Accountancy adopts new §501.21, without changes to the proposed text published in the March 4, 1988, issue of the *Texas Register* (13 TexReg 1130).

The new section will provide a more concise definition of the level of competence to be met by the certified public accountant/public accountant.

The new section will define the prevailing position of the accounting profession with regard to the level of competence required in completion of engagements by certified public accountants/public accountants.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to professional competence in the public accounting profession.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8803967

Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: May 9, 1988

Proposal publication date: March 4, 1988

For further information, please call: (512) 450-7066

## Advertising and Soliciting

### • 22 TAC §501.47

The Texas State Board of Public Accountancy adopts the repeal of §501.47, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3814).

The repeal of this section will allow for the adoption of a new section which will reflect changes within the accounting profession.

The repeal will allow for the adoption of a new section relating to firm names which may be used in the practice of public accounting.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to firm names to be used in the practice of public accountancy.

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

Issued in Austin, Texas, on April 15, 1988.

Effective date: May 9, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 450-7066

The Texas State Board of Public Accountancy adopts new §501.47, without changes to the proposed text published in the March 4, 1988, issue of the *Texas Register* (13 TexReg 1130).

The new section is required to provide requirements for firm names that may be used in the practice of public accountancy.

The new section will provide guidelines for the composition of firm names and restrictions thereon.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to firm names to be used in the practice of public accountancy.

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

Issued in Austin, Texas, on April 15, 1988.

TRD-8803965

Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: May 9, 1988

Proposal publication date: March 4, 1988

For further information, please call: (512) 450-7066

## Part XXXII. State Committee of Examiners for Speech-Language Pathology and Audiology

### Chapter 741. Speech-Language Pathologists and Audiologists

The State Committee of Examiners for Speech-Language Pathology and Audiology adopts amendments to §741.143 and §741.162, without changes to the proposed text published in the February 9, 1988, issue of the *Texas Register* (13 TexReg 678). The amendments will safeguard the public health, safety, and welfare by the continuation of the established procedures and policies concerning the licensing and regulation of Speech-Language Pathologists, Audiologists, Licensed Associates in Speech-Language Pathology, and Licensed Associates in Audiology.

The amendment to §741.143 updates and clarifies the provisions concerning prorated

fees. The amendment to §741.162 updates and clarifies the provisions concerning license renewals, makes each licensee responsible for license renewal before the expiration date, and adds provisions concerning inactive status.

There were no comments received regarding the adoption of the proposed amendments.

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules regulating speech-language pathology and audiology; and Article 4414b, §1.05, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

## Subchapter H. Licensing

### • 22 TAC 741.143

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

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8803995

Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health

Effective date: May 10, 1988

Proposal publication date: February 9, 1988

For further information, please call: (512) 458-7502

## Subchapter I. License Renewal

### • 22 TAC 741.162

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules regulating speech-language pathology and audiology; and Article 4414b, §1.05, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8803996

Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health

Effective date: May 10, 1988

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 1. Texas Board of Health

##### Formal Hearing Procedures

###### • 25 TAC §1.34

The Texas Department of Health adopts new §1.34 without changes to the proposed text as published in the January 8, 1988 issue of the *Texas Register* (13 TexReg 216).

The purpose of the new section is to make the general public aware of the time periods involved in the department's conduct of contested case hearings.

The new section covers general provisions, contested cases not involving the general public, contested cases involving the general public, and time periods not covered by the section.

No comments were received concerning the proposed new section.

The section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3, which authorizes the Board of Health to adopt rules concerning time periods involved in the Department's conduct of contested case hearings; and Article 4414b, §1.05, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8803993 Robert A. MacLean,  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health

Effective date: May 10, 1988

Proposal publication date: January 8, 1988

For further information, please call: (512) 458-7236

#### Chapter 181. Vital Statistics

##### Miscellaneous Provisions

###### • 25 TAC 181.11

The Texas Department of Health adopts new 181.11 without changes to the proposed text published in the December 18, 1987, issue of the *Texas Register* (12 TexReg 4734).

The purpose of the new section is to make applicants requesting data from Department files aware of the role of the Department's Committee on Requests for Personal Data and the procedures for applying for such data. The new section covers the functions of the committee, definitions, the application procedure, and the Department's policy concerning followback.

There were no public comments received concerning the adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4414b, 1.05, which provides the Texas Board of Health with the authority to adopt rules covering its policies and procedures.

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

Issued in Austin, Texas, on April 19, 1988.

TRD8803998 Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health  
Effective date: May 10,  
1988  
Proposal publication date:  
December 18, 1987  
For further information,  
please call: (512) 458-  
7692.

#### Chapter 325. Solid Waste Management

##### Subchapter O. Guidelines and Requirements for Regional and Local Solid Waste Management Plans

###### • 25 TAC §325.561, §325.563

The Texas Department of Health adopts amendments to §325.561 and §325.563 with changes to the proposed text published in the February 9, 1988, issue of the *Texas Register* (13 TexReg 680-681). House Bill 2051 enacted by the 70th Legislature, 1987, contains a hierarchy of preferred methods for management of municipal solid waste, including a separate hierarchy of methods for management of municipal sludge. The law mandates changes in the rules which the Texas Department of Health uses to evaluate regional and local plans for management of municipal solid waste.

The amendment to §325.561 covers purpose and scope, and the amendment to §325.563 covers regional and local plan requirements. The amended sections are a part of the guidelines for regional and local solid waste management plans. The most preferred method of waste management is at the top of the hierarchies, while the least preferred method (landfilling) is at the bottom of the hierarchies. These hierarchies are required to be a part of the criteria which the Texas Department of Health uses to evaluate regional and local solid waste management plans. The plans must show the regional and local governments' efforts, opportunities, and recommendations that will promote imple-

mentation of the preferred management methods.

Written comments on the proposed amendments were invited through March 10, 1988, and a public hearing was conducted in Austin on February 23, 1988. The following is a summary of the comments received on the proposed amendments, and the department's response to those comments.

Concerning the title of the subchapter being amended (Subchapter O. Guidelines for Regional and Local Solid Waste Management Plans), a commentator said that the title may be misleading since it may be understood that the contents within the subchapter are optional or recommended rather than a "requirement." The subchapter title should be amended to show that the subchapter contains guidelines and requirements, since consideration of the waste management hierarchy are "requirements" in the planning process, mandated in House Bill 2051. One of the laws being amended by House Bill 2051 is the Comprehensive Municipal Solid Waste Management, Resource Recovery and Conservation Act, Texas Civil Statutes, Article 4477-7c. Section 11 (c)(3) of that Act provides that the department will establish guidelines for regional and local municipal solid waste management plans. The department construes these guidelines as the rules referred to in §7(a) of the same Act. This is the reason that Subchapter O was originally promulgated under the Act and titled "guidelines." Existing law does not mandate that each regional or local government must develop a solid waste management plan; and if a plan is developed, existing law does not require such a plan be approved or approvable by the Texas Department of Health. Existing law does provide that if a plan is to be approved, it must be developed according to the provisions of the department's rules related to plan development and approval. In one sense, the provisions are guidelines, because plans are not mandated; however, the department agrees that the provisions of Subchapter O are "requirements" if the regional or local governments expect approval of their plans by the department. In order to reduce the possibility for misunderstanding the applicability of the planning guidelines, the heading of Subchapter O has been amended to include the word "requirements."

Concerning §325.561(b)(5), a commentator said that the existing wording is confusing, and the phrase related to economic and technological feasibility may be interpreted as applying to preparation of a plan rather than the use of certain waste management methods. The department wishes to eliminate any possible confusion and has incorporated a change in the wording related to the action to which the economic and technological feasibility applies. Concerning §325.563(b)(3), a commentator expressed concern that the wording of paragraph (3) allows some items in the plan content to be optional (expressed by the words: "As applicable, the plan should include..."); while, the provisions of House Bill 2051 are requirements and must be included in each plan. The department's response is that the wording in paragraph (3) was intentional in its recognition that certain items named for inclusion in local plans were only to be included as applicable. For example, subparagraph (b)(3)(A) states that local plans should include socioeconomic data from any



regional planning process. However, the law (Texas Civil Statutes, Article 4477-7c, §7(c)) recognizes that a local government may develop a local plan, even if a regional plan does not exist. In such cases, it would be improper for the department to require the local government to include socioeconomic data from a regional plan that does not exist. In a situation such as this, the department must make a determination whether certain data is required or optional, after it has assessed the specific conditions applicable to the plan under consideration. In a second example, new subparagraph (b)(3)(G) (formerly subparagraph (D)) states that the local plan should include "...local goals and objectives..." yet the law and the planning rules provide that provisions in a local plan must not conflict with an applicable state or regional plan. Therefore, the department would not be authorized to approve a local plan that has goals or objectives that are in conflict with a current and adopted state or regional plan that applies to the same geographical area as the local plan. The department understands the concern of the commentor; however, the department feels that segregating (within the rules) the planning elements that are always required from those that are conditionally required would not only be more confusing than the present rule construction, but would also place the department in the situation of trying to anticipate today all possible situations or conditions that may arise in the future. The department feels this may not be possible to do in a faultless manner. The department does, however, feel that it will be able to make the correct decision when considering whether a specific local plan element is required or approvable at the time it is being reviewed by the department. The department would like to reduce the possibility of paragraph (b) (3) being misunderstood by local governments or individuals; therefore, the word "should" has been changed to "shall," but the words "as applicable" have been retained.

One commenter expressed concern that by adopting the hierarchy as a rule, the hierarchy was being made a requirement by the department rather than a guideline. Also, there was concern that the hierarchy is good as far as policy is concerned, but enforcement of the hierarchy should take into consideration the real world conditions of practicality and economic feasibility. The trend today, in environmental regulation, is to be too "utopian," rather than having adequate consideration of cost-benefit and cost-effectiveness concerns. Previously, the department has already addressed the question of whether the hierarchy is a requirement or a guideline. Sections 7(a) and 11 of the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act, Texas Civil Statutes, Article 4477-7c, require the department to adopt "guidelines" for development and approval of regional and local plans and declare that the department must adopt the planning criteria as a rule. House Bill 2051, §3 (which amends Article 4477-7c, §7(a)), requires the department to adopt the hierarchy by rule and include the hierarchy as part of the criteria the department uses to evaluate regional and local plans; therefore, the department has no option but to consider the hierarchy as mandatory. Regarding whether the hierarchy considers real world conditions, the department responds by point-

ing out that the amendments being adopted specifically state that the hierarchy of management methods shall be considered "...to the maximum extent economically and technologically feasible..." therefore, the objection has no basis.

Those commenting in favor of the adoption of the proposed amendments, but suggesting certain changes, were Ken Kramer, Ph.D., Sierra Club, Lone Star Chapter, Austin; Sandra Pickett, Councilwoman, City of Liberty; Diane B. Sheridan, President, League of Women Voters of Texas, Austin. Commenting in opposition to the adoption of the proposed amendments was Monty D. Shank, Manager, Water Production and Water Quality, City of Tyler.

The amendments are adopted under authority of House Bill 2051 enacted by the 70th Legislature, 1987, which requires the Texas Department of Health to incorporate the defined hierarchy of waste management methods in the criteria for evaluating regional and local solid waste management plans; Texas Civil Statutes, Article 4477-7, §3(a) and §4(c), which authorize the Board of Health to adopt rules on municipal solid waste management; and Article 4414b, §1.05, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§§325.561. *Purpose and Scope.*

(a) (No change.)

(b) Scope.

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

(3) Management activities. The regional plan shall provide an overview of solid waste management activities, including institutional arrangements and options for private sector involvement, with particular emphasis on identifying priorities and factors which need more detailed consideration at the local level. The local plan should address local activities, including contractual agreements, in a manner that is specific enough to provide for implementation of suggested courses of action. Aspects of solid waste management listed in subparagraphs (A)-(J) of this paragraph shall be considered, as appropriate.

(A)-(D) (No change.)

(E) resource conservation and recovery:

(i) minimization of waste production;

(ii) reuse and recycling;

(iii) source separation;

(iv) volume reduction;

(v) incineration;

(vi) gasification; and

(vii) methane recovery;

(F)-(J) (No change.)

(4) (No change.)

(5) Management methods.

(A) In regional and local plans, preference shall be given to the maximum extent economically and technologically feasible to the management methods for solid waste (except sludge) described in clauses (i)-(iv) of this subparagraph. The management methods are listed in descending order, from most preferred to least preferred.

(i) minimization of waste production;

(ii) reuse or recycling of waste;

(iii) treatment to destroy or reprocess the waste for the purpose of recovering energy or other beneficial resources in a manner that will not threaten public health, safety or the environment; or

(iv) land disposal.

(B) In regional and local plans, preference shall be given to the maximum extent economically and technologically feasible to the management methods for municipal sludge, as described in clauses (i)-(vi) of this subparagraph. The management methods are listed in descending order, from most preferred to least preferred.

(i) minimization of sludge production and concentrations of heavy metals and other toxins in the sludge;

(ii) treatment of sludge to reduce pathogens and recover energy, produce beneficial by-products, or reduce the quantity of the sludge;

(iii) marketing and distribution of sludge and sludge products, if the marketing and distribution does not threaten public health, safety or the environment;

(iv) land application for beneficial use;

(v) land treatment; or

(vi) landfilling.

§325.563. *Regional and Local Plan Requirements.*

(a) Regional plans. A regional plan identifies the problems, goals, objectives, and recommended actions for solid waste management over a long-range period for the entire planning region.

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

(3) Plan content. A regional plan shall be the result of a planning process related to the proper management of solid waste in the planning region. The process shall include identification of problems and collection and evaluation of the data necessary to provide a written public statement of goals and objectives and actions recommended to accomplish those

goals and objectives. The regional plan shall include:

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

(D) assessment of current efforts to minimize production of municipal solid waste, including sludge, and efforts to reuse or recycle waste;

(E) identification of additional opportunities for waste minimization and reuse or recycling of waste;

(F) recommendations for encouraging and achieving a greater degree of waste minimization and reuse or recycling of waste;

(G) identification of public and private management agencies and responsibilities;

(H) identification of solid waste management problems and establishment of priorities for addressing those problems;

(I) planning areas and agencies with common solid waste management problems which could be addressed through joint action;

(J) incentives and barriers for waste reduction and resource recovery, including identification of potential markets;

(K) regional goals and objectives;

(L) advantages and disadvantages of alternative actions; and

(M) the recommended plan of action and associated timetable, including the need for new or expanded facilities and practices.

(4) (No change.)

(b) Local plans. A local plan addresses specific short- or long-range problems and actions related to solid waste management within the jurisdiction of one or more local governments and may be developed regardless of whether a regional plan has been developed which will affect the local planning area.

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

(3) Plan content. A local plan shall be the result of a planning process that is related to the proper management of solid waste in the local planning area. The process shall include identification of problems and collection and evaluation of the data necessary to provide a written public state-

ment of goals and objectives and the actions recommended to accomplish those goals and objectives. As applicable, the local plan shall include:

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

(D) assessment of current efforts to minimize production of municipal solid waste, including sludge, and efforts to reuse or recycle waste;

(E) identification of additional opportunities for waste minimization and reuse or recycling of waste;

(F) recommendations for encouraging and achieving a greater degree of waste minimization and reuse or recycling of waste;

(G) local goals and objectives associated with management problems;

(H) advantages and disadvantages of alternative actions; and

(I) the recommended plan of action and associated timetable for accomplishing the goals and objectives.

(4) (No change.)

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

Issued in Austin, Texas, on April 19, 1988.

TRD-8803992

Robert A. MacLean, M.D.  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health

Effective date: May 10, 1988

Proposal publication date: February 9, 1988

For further information, please call: (512) 458-7271

## Chapter 337. Water Hygiene

### Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems

#### • 25 TAC §§337.2, 337.3, 337.9, 337.12, 337.14

The Texas Department of Health adopts amendments to §§337.2, 337.3, 337.9, 337.12, and 337.14. Sections 337.2, 337.9, and 337.12 are adopted with changes to the proposed text published in the January 12, 1988 issue of the Texas Register (13 TexReg 240). Sections 337.3 and 337.14 are adopted

without changes and will not be republished in this issue of the Texas Register. The amended sections update and modify the sections under the department's "Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems," to make them compatible with the federal "National Primary Drinking Water Regulations" in 40 CFR 141 and the department's requirements in §§337.201-337.211 of this title (relating to Public Water Systems). Specifically, the amendments modify the definition of public water systems; add a definition of non-transient, non-community water system; modify the provisions concerning maximum contaminant levels for organic contaminants; add procedures for analysis for organic contaminants in community water systems and non-transient non-community water systems, and make several changes for purposes of updating the sections. Concerning §337.2, a commentor suggested that the definition for "public water system" be clarified by expanding the description used for adjacent water systems. The department agrees and has modified the wording for the paragraph. In addition, the department has clarified the definition by deleting subparagraphs (A) and (B) of the paragraph and combining the text of the subparagraphs into one paragraph. Concerning §337.2, a commentor suggested that a definition be provided for "Human Consumption" and "Drinking Water." The department agrees, and has included this definition. Concerning §337.2, a commentor suggested that the definition of "community water system" be clarified by changing the wording for use on a year-round basis. The department agrees and has modified this paragraph. Concerning §337.9(d)(6), a commentor suggested expanding the paragraph to include standards of compliance for systems following reduced monitoring as stated in the Federal Regulations in 40 CFR §141.24. The department agrees and has expanded this paragraph. Concerning §337.9, a commentor suggested including provisions in the section for sampling and analytical requirements of unregulated contaminants. The department agrees that this will help further define the department's and the water systems' responsibilities and has included these provisions in a new subsection (e). Concerning §337.9(e) and §337.12(d), the department has added a provision relating to public review of federal regulations adopted by reference. Commenting on the adoption of the amendments were the Office of the Attorney General of Texas and Phillips Petroleum Company. Each commentor agrees with the amendments in that it is required for compatibility with Federal Regulations, but offered comments and recommendations.

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

Community water system - A public water system which has a potential to serve at least 15 service connections on a year-round basis or serves at least 25 individuals on a year-round basis. Service connections shall be counted as one for each single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system.

Drinking water - All water distributed by any agency or individual, public or private, for



the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "Drinking Water" shall also include all water supplied for human consumption or used by any institution catering to the public.

**Human consumption** - Uses by humans in which water can be ingested into or absorbed by the human body. Examples of these uses include, but are not limited to drinking, cooking, brushing teeth, bathing, washing hands, washing dishes, and preparing foods.

**Nontransient noncommunity water system or "NTNCWS"** - A public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

**Public water system** - A system for the provision to the public of piped water for human consumption, which includes all uses described under the definition for drinking water. Such a system must have a potential for at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more water systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he resides in, uses as his place of employment, or works in, a place to which drinking water is supplied from the system. A public water system is either a "community water system" or a "noncommunity water system," as defined in this section.

### §337.9. Organic Chemical Other Than Total Trihalomethanes, Sampling and Analytical Requirements.

(a) An analysis of substances for the purpose of determining compliance with §337.3(4)(A) of this title (relating to Standards of Chemical Quality) shall be made as follows.

(1)-(2) (No Change.)

(b)-(c) (No Change.)

(d) Analysis of the contaminants listed in §337.3(4)(B) of this title (relating to Standards of Chemical Quality) for purposes of determining compliance with the maximum contaminant levels shall be conducted as follows.

(1) Groundwater systems shall sample at points of entry to the distribution system representative of each well. Sampling must be conducted at the same location or a more representative location each quarter. Groundwater systems must sample every three months for each entry point to the distribution system except as provided in paragraph (5)(A) of this subsection.

(2) Surface water systems shall sample at points in the distribution system representative of each source or at entry points to the distribution system after any application of treatment. Surface water systems must sample each source every three months except as provided in paragraph (5)(B) of this subsection. Sampling must be conducted at the same location or a more representative location each quarter.

(3) If the system draws water from more than one source and sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions.

(4) All community water systems and nontransient, noncommunity water systems serving more than 10,000 people shall analyze all distribution or entry point samples, as appropriate, representing all source waters beginning no later than January 1, 1988. All community water systems and nontransient/noncommunity water systems serving from 3,300 to 10,000 people shall analyze all distribution or entry-point samples, as required in this subsection, representing source waters no later than January 1, 1989. All other community and nontransient/noncommunity water systems shall analyze distribution or entry-point samples, as required in this subsection, representing all source waters beginning no later than January 1, 1991.

(5) The state may reduce the monitoring frequency specified in paragraphs (1) and (2) of this subsection, as follows.

(A) The monitoring frequency for groundwater systems is as follows.

(i) When volatile organic chemicals (VOCs) are not detected in the first sample (or any subsequent samples that may be taken) and the system is not vulnerable as described in subparagraph (D) of this paragraph, monitoring must be repeated every five years.

(ii) When VOCs are not

detected in the first sample (or any subsequent sample that may be taken) and the system is vulnerable as defined in subparagraph (D) of this paragraph:

(I) Monitoring must be repeated every three years for systems greater than 500 connections.

(II) Monitoring must be repeated every five years for systems less than 500 connections.

(iii) If VOCs are detected in the first sample (or any subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every three months, as required under paragraph (1) of this subsection.

(B) The repeat monitoring frequency for surface water systems is as follows.

(i) When VOCs are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is not vulnerable as defined in subparagraph (D) of this paragraph, monitoring is only required at state discretion.

(ii) When VOCs are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is vulnerable as defined in subparagraph (D) of this paragraph.

(I) Monitoring must be repeated in three years for systems greater than 500 connections.

(II) Monitoring must be repeated every five years for systems less than 500 connections.

(iii) When VOCs are detected in the first year of quarterly sampling (or any other subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every three months, as required under paragraph (2) of this subsection.

(C) States may reduce the frequency of monitoring to once per year for a groundwater system or surface water system detecting VOCs at levels consistently less than the maximum contaminant level (MCL) for three consecutive years.

(D) Vulnerability of each public water system shall be determined by the state based upon an assessment of the following factors:

(i) previous monitoring results;

(ii) numbers of persons

served by public water system;

(iii) proximity of a smaller system to a larger system;

(iv) proximity to commercial or industrial use, disposal, or storage of volatile synthetic organic chemicals; and

(v) protection of the water source.

(E) A system is deemed to be vulnerable for a period of three years after any positive measurement of one or more contaminants listed in §337.3(4)(B) of this title (relating to Standards of Chemical Quality), or referred to in subsection (e) of this section except for trihalomethanes or other demonstrated disinfection by-products.

(6) Compliance with §337.3(4)(B) of this title (relating to Standards of Chemical Quality) shall be determined based on the results of running annual average of quarterly sampling for each sampling location. If one location's average is greater than the MCL, then the system shall be deemed to be out of compliance. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, only that part of the system that exceeds any MCL as specified in §337.3(4)(B) of this title (relating to Standards of Chemical Quality) will be deemed out of compliance. If any one sample result would cause the annual average to be exceeded, then the system shall be deemed out of compliance immediately. For systems that only take one sample per location because no VOC's were detected, compliance shall be based on that one sample.

(c) Analyses of unregulated contaminants shall be as specified in 40 Code of Federal Regulations, §141.40. The department adopts by reference the Federal Regulations referred to in this subsection. Copies are available for review in the Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

§337.12. *Approved Laboratory.*

(a)-(b) (No Change.)

(c) Methods of analysis shall be as specified in 40 Code of Federal Regulations, §141.21(a) (microbiological), §141.22(a) (turbidity), §141.23(f) (inorganics), §141.24(e),(f) and (g) (organics) and §141.25 (radionuclides) of the national interim primary drinking water regulations, or by any alternative analytical technique as specified by the State and approved by the administrator under 40 Code of Federal Regulations, §141.27.

(d) The department adopts by reference the federal regulations referred to in subsection (c) of this section. Copies are available for review in the Division of Wa-

ter Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

§337.14. *Recommended Secondary Constituent Levels Applicable to All Public Water Systems.*

(a) (No Change.)

(b) For all instances in which drinking water does not meet the recommended limits and is accepted for use by the department, such acceptance is valid only until such time as water of acceptable chemical quality can be made available at reasonable cost to the area(s) in question from an alternate source. At such time, the water which was previously accepted would either have to be treated to lower the constituents to acceptable levels, or water would have to be secured from the alternate source.

(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 April 19, 1988.

TRD-8803997

Robert A. McLain, M.D.  
Commissioner for  
Professional Services  
Texas Department of  
Health

Effective date:

Proposal publication date: January 12, 1988

For further information, please call: 458-7533

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part II. Texas Rehabilitation Commission

#### Chapter 101. General Rules

##### • 40 TAC §101.12

The Texas Rehabilitation Commission adopts an amendment to §101.12 without changes to the proposed text published in the February 12, 1988, issue of the *Texas Register* (13 TexReg 835).

This section is being amended to include coordination with the Texas Department of Human Services and other health and human services agencies to ensure that clients with learning disabilities receive appropriate services.

The amended section will function to coordinate services to be provided to persons with learning disabilities.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Human Resources Code, Title 7, Chapter 111, which provides Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information,

the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations necessary to carry out the purposes of this chapter.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804033

Charles Schiesser  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Effective date: May 10, 1988

Proposal publication date: February 12, 1988

For further information, please call: (512) 445-8124

## Chapter 115. Memoranda of Understanding with Other State Agencies

### • 40 TAC §115.2

The Texas Rehabilitation Commission adopts new §115.2 with changes to the proposed text published in the January 1, 1988, issue of the *Texas Register* (13 TexReg 49).

This section is added to comply with Senate Bill 298, 70th Legislature, 1987, which requires the adoption by rule of a memorandum of understanding between the Texas Rehabilitation Commission, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, and Texas Department of Health to implement and coordinate the exchange and distribution of public awareness information among the agencies. Two sentences were added by the Texas Board of Health relating to the Texas Department of Health's mission in §115.2(e).

The section will function to expedite services to consumers through the sharing of information between state agencies and with the public.

The Texas Board of Health, at its January 23, 1988, meeting, added two sentences to the memorandum of understanding relating to the Texas Department of Health's mission. This section is therefore being adopted with changes.

The new section is adopted under Texas Human Resources Code, Title 7, Chapter 111 which provides Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations necessary to carry out the purposes of this chapter.

§115.2. *Memorandum of Understanding Regarding the Exchange and Distribution of Public Awareness Information.*

(a) Purpose. The purpose of this memorandum of understanding between the Texas Rehabilitation Commission (TRC), Texas Department of Human Services (TDHS), Texas Department of Health

(TDH), and Texas Department of Mental Health and Mental Retardation (TDMHMR) is to implement and coordinate the exchange and distribution of public awareness information among the agencies.

(b) Basis. This memorandum of understanding is intended to satisfy the requirement of Senate Bill 298, 70th Legislature, 1987.

(c) Responsibilities of TRC. Under the Texas Human Resources Code, Title 7, the TRC is the principal authority in the state on rehabilitation of handicapped and disabled individuals leading to employment, except for those matters relating to individuals whose handicaps are of a visual nature, the determination of social security disability benefits, licensure of occupational therapists, promotion of employer acceptance of workers with disabilities, and development of programs to serve persons with developmental disabilities.

(d) Responsibilities of TDHS. The TDHS provides services to two major groups of needy people: families and children, and aged and disabled adults. Eligible families and children receive cash grants from the Aid to Families with Dependent Children Program, Health Care, Family Self-support Services, and Food Stamps. Services to aged and disabled individuals who are poor include Health Care, Institutional Care, Community Care, and Food Stamps. Services available to all Texans, regardless of financial need, include Protective Services for Children, Protective Services for Aged and Disabled Persons,

Disaster Assistance, and Child-care Licensing.

(e) Responsibilities of TDH. The TDH is an agency of the state of Texas created by Texas Civil Statutes, Article 4414b, to better protect and promote the health of the people of Texas. This mission is accomplished by prevention of disease, education for health, and those activities which promote health, safety, and health services for all in the state of Texas. The TDH is responsible to the taxpayers of Texas, to the consumers of health care, to health professionals, to the public officials of state and local governments; and to other state agencies.

(f) Responsibilities of TDMHMR. The TDMHMR is the state agency that provides a system of services for the conservation and restoration of mental health among Texas citizens and to provide, coordinate, develop, and improve services for the mentally retarded citizens of this state so that they will be afforded the opportunity to develop their respective mental capacities to the fullest practicable extent and to live as useful and productive lives as possible. To accomplish this, the department provides a network of eight state hospitals for the mentally ill, 13 state schools for the mentally retarded, seven special centers, and 34 community centers.

(g) Common responsibilities. Each agency designs, writes, publishes, and distributes information to the public about the programs and services available from that agency.

(h) Agreement. For the purpose of this memorandum of understanding, each agency agrees to:

(1) provide a current list of all publications designed for public awareness to the other agencies;

(2) provide a copy of each publication designed for public awareness to the other agencies;

(3) provide a copy of updated publications to other agencies in a timely manner;

(4) adopt this memorandum of understanding and any revisions by rule; and

(5) review and update the memorandum no later than the last month of each state fiscal year.

(i) Effective Date. This memorandum of understanding is effective December 31, 1987.

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

Issued in Austin, Texas, on April 18, 1988.

TRD-8804036

Charles Schiesser  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Effective date: May 10, 1988

Proposal publication date: January 1, 1988

For further information, please call: (512) 445-8124

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# 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 billeting 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*.

## Battleship Texas Advisory Board

Thursday, April 28, 1988, 3 p.m. The Battleship Texas Advisory Board will meet in the Second Floor Conference Room, HL&P Energy Information Center, 6700 West Loop South, Houston. According to the agenda, the board will hear opening remarks; approve minutes and other administrative matters; hear reports regarding fundraising progress and dredging, First Texas Volunteers, legislative appropriations, Beaumont fundraising, and fundraising by Texas school children; and discuss board objectives and implementation thereof.

Contact: Robert D. Miller, 3400 Texas Commerce Tower, Houston, Texas 77002, (713) 226-1186.

Filed: April 20, 1988, 8:50 a.m.

TRD-8804059

## Interagency Council on Early Childhood Intervention

Thursday, April 28, 1988, 8:30 a.m. The Interagency Council on Early Childhood Intervention will meet in the Second Floor Conference Room, Texas Department of Health, 1101 East Anderson Lane, Austin. According to the agenda summary, the council will approve minutes of the previous meeting; hear program update on report on toll-free number, report on staff positions and upgrades, report on recognition month, and advisory committee report on advisory nominees; consider requests for additional funds for Region VIII Education Service Center, Klein Independent School District, Easter Seal/Rio Grande Valley, Child Study Center, South Texas Children's Habilitation, and Brazoria County Association for Children with Handicaps; hear report on fringe benefits issue for state schools and centers; discuss United States Department of Education action on charging fees; approve rules revision on lapsed funds and rule revision on complaint procedures; consider letter from TEA Complaint Division; consider approval of Part H appli-

cation for fiscal year 1989 and public hearing (Public Law 99-457); and discuss request for funds for fiscal year 1990-1991 from the legislature.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

Filed: April 19, 1988, 4:20 p.m.

TRD-8804049

## Advisory Commission on State Emergency Communications

April 27, 1988, 1 p.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet in Room GA, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the committee will consider developing a 9-1-1 administrative policy manual, 9-1-1 legislative needs, hear update on office space and alternative funding issues, and any new business related to 9-1-1 administration.

Contact: Mary A. Boyd, P.O. Box 13206, Austin, Texas 78711.

Filed: April 19, 1988, 4:55 p.m.

TRD-8804050

## Texas Employment Commission

Wednesday, April 27, 1988, 8 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting; consider internal procedures of commission appeals and tax liability cases and higher level appeals in unemployment compensation cases listed on Docket and set date of next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: April 19, 1988, 1:51 p.m.

TRD-8804013

## Commission on Fire Protection Personnel Studies and Education

Thursday, April 28, 1988. The Commission on Fire Protection Studies and Education will meet in the Deaf Commission Conference Room (Basement), 510 South Congress Avenue, Austin. Times and agendas follow.

9:30 a.m. The Fire Service Instructors Committee will consider amendments to fire service instructors standards that were proposed during the January commission meeting.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804025

10:30 a.m. The Committee on Fire Suppression will consider whether testing and breaktime may be included in basic fire fighting training, rule regarding time frames for fire departments to purchase fire fighter boots that comply with National Fire Protection Association Standards, and final rule for testing breathing air used by fire department.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804026

1:15 p.m. The Aircraft Crash and Rescue Committee will consider amendments to existing aircraft crash and rescue standards for training due to new training requirements from the Federal Aeronautics Administration.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804027

**Thursday, April 28, 1988, 2:30 p.m.** The Fire and Arson Investigator Committee will consider proposed rules for certifying peace officers as fire and arson investigators, mandatory certification of regular fire and arson investigators within one year of employment, and discuss possibility of fire marshal certification.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804024

**3:30 p.m.** The Higher Education Committee will consider proposed rules for recognizing all college degrees for advanced levels of certification in several disciplines.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804030

**4 p.m.** The Assessment Development Committee will consider whether Port of Houston Authority fire fighters assigned to a fire truck instead of a fire boat must meet training and certification requirements for structural fire fighting certification.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804028

**4:30 p.m.** The Budget Committee will review draft of proposed budget for the 1990-1991 biennium and make changes for first submission in June 1988.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804029

**Friday, April 29, 1988, 9:30 a.m.** The Commission on Fire Protection Personnel Standards and Education will meet in the Deaf Commission Conference Room (Basement), 510 South Congress Avenue, Austin. According to the agenda summary, the commission will hear committee reports, new business, staff activities reports, and legislative reports.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: April 19, 1988, 3:29 p.m.

TRD-8804031

## Office of the Governor

The Office of the Governor will meet in the Sergeant's Room, State Capitol, Austin. Dates, times, and agendas follow.

**Wednesday, May 4, 1988, 10 a.m.** The Legal Considerations Subcommittee Select Committee on Education will hear presentations of other state model summaries regarding legal action and equity and consider constitutional and legislative overview of various model options.

**Contact:** Margaret La'Montagne, Sam Houston Building, Room 105, Austin, Texas, (512) 463-1834.

Filed: April 19, 1988, 10:42 a.m.

TRD-8804007

**Thursday, May 5, 1988, 8:30 a.m.** The Financial Considerations Subcommittee on the Select Committee on Education will consider exploration of basic theoretical finance options with models concerning full state financing, creation of equal tax base districts, guaranteed tax yield, foundation program, and combination of guaranteed tax yield and foundation program; hear legislative presentation; and consider summary of options and prospective combinations thereof to be presented to committee of the whole.

**Contact:** Margaret La Montagne, Sam Houston Building, Room 105, Austin, Texas, (512) 463-1834.

Filed: April 19, 1988, 10:42 a.m.

TRD-8804006

## State Department of Highways and Public Transportation

**Wednesday, April 27, 1988, 10 a.m.** The State Highways and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Room 101-A, First Floor, Dewitt C. Greer Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will execute contracts and routine minute orders; receive data, hear comments, views and/or testimony for proposed commission action to proceed with the acquisition of five parcels of land along the Gulf Intracoastal Waterway. Upon completion of public hearing, the commission will consider presentations from previous public hearing dockets as necessary. Review staff reports relative to planning and construction programs and projects, and consider principal arterial street system program. Agenda is available in Second Floor Office of Minute Clerk in the Dewitt C. Greer Highway Building.

**Contact:** Lois Jean Turner, Dewitt C. Greer Highway Building, Room 203, 11th and Brazos Streets, Austin, Texas (512) 463-

8616.

Filed: April 19, 1988, 1:54 p.m.

TRD-8804014, 8804061

## Texas Department of Human Services

**Tuesday, May 3, 1988, 9 a.m.** The Vender Drug Formulary Subcommittee of the Texas Department of Human Services will meet on the Second Floor, Classroom A, West Tower, 701 West 51st Street, Austin. According to the agenda, the subcommittee will review reglan, calan, isoptin, and product approval, of drug product application, and consider cost containment and policy review of DUR and EAC policy.

**Contact:** Robert Harriss, P.O. Box 2960, Austin, Texas 78769, (512) 450-3188.

Filed: April 21, 1988, 8:49 a.m.

TRD-8804084

## Texas Indian Commission

**Thursday-Friday, April 28-29, 1988, 1 p.m.** The Commissioners of the Texas Indian Commission will meet in the Second Floor Conference Room, TCB Administration Building, 4800 North Lamar Boulevard, Austin. According to the agenda, the commissioners will hear reports and discussion relating to activities of the Tigua and Alabama-Coushatta Indian reservations and the Texas Bank of Kickapoo; trust transfer process; Native American Restitutionary Program; programs and services for urban and non-reservation Indians; state and federal legislation; current projects with state and federal agencies; fiscal year 1990-1991 budget requests; and hear reports submitted to the Special Committee on Organization of State Government and the Sunset Commission.

**Contact:** Nadia Bice, P.O. Box 12030, Austin, Texas 78711, (512) 458-1203.

Filed: April 20, 1988, 4:49 p.m.

TRD-8804079

## Texas Industrial Accident Board

**Monday, April 25, 1988, 9:30 a.m.** The Texas Industrial Accident Board met in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board will approve board minutes; discuss reproduction charges and information services; review board files (this portion closed pursuant to worker's compensation statute); and review and discuss board activities.

**Contact:** Inez "Tippy" Foster, 200 East Riverside Drive, First Floor, Austin, Texas

78704, (512) 448-7960.

Filed: April 21, 1988, 9:07 a.m.

TRD-8804083

## State Board of Insurance

Thursday, April 21, 1988, 10 a.m. The State Board of Insurance met in emergency session in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board considered approval of a survey form to be issued under the Insurance Code, Article 1.24, addressing inquiries to certain accident and health insurers and to all health maintenance organizations at the request of the Legislative Task Force on AIDS. The emergency status was necessary to obtain, as rapidly as possible, information useful to a Legislative Task Force seeking to protect public health.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 20, 1988, 3:13 p.m.

TRD-8804066

## Texas National Guard Armory Board

Sunday, May 1, 1988, 1 p.m. The Texas National Guard Armory Board will meet in the Conference Room, Building 64, Camp Mabry. According to the agenda summary, the board will consider administrative matters, construction/renovation/maintenance, and property/leases.

Contact: Sandra Hille, P.O. Box 5218, Austin, Texas 78763-5218, (512) 451-6394/6143.

Filed: April 19, 1988, 3:47 p.m.

TRD-8804032

## Texas State Board of Public Accountancy

The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Dates, times, and agendas follow.

Monday, April 25, 1988, 1 p.m. The board met in emergency session to discuss and review complaint 86-07-10L. The emergency status was rescheduled because this is the only time parties involved can meet.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 19, 1988, 3:45 p.m.

TRD-8804034

Wednesday, April 27, 1988, 2 p.m. The

Executive Committee will review legislative mandate that all members of state licensing agencies attend training sessions conducted by the attorney general's office. The agenda is being revised to allow for scheduling to comply with training requirements.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 20, 1988, 3:21 p.m.

TRD-8804067

Thursday and Friday, April 27 and 28, 1988, 9 a.m. daily. The board will approve minutes of the March 31, 1988, meeting; hear report of the Nominating Committee and election of officers, Continuing Education Committee, Examination Committee, Committee on Technical Standards Review, and Constructive Enforcement Committee; consider action on substantive rules; review request for attorney general opinion on the temporary increase of \$100 for the annual license renewal and board's financial condition; discuss results of prior board motion to file complaints on individuals and firms who have been practicing without licenses; hear report of the Entry and Reentry Screening Committee; and review certain board communications and review of future meeting/hearing schedules.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 19, 1988, 3:45 p.m.

TRD-8804017

## Texas Public Finance Authority

Friday, April 29, 1988, 10 a.m. The Texas Public Finance Authority will meet in Room 104, Reagan Building, 105 West 15th Street, Austin. According to the agenda, the authority will approve minutes of the April 14, 1988, meeting; consider matters pertaining to bond issue, selection of bond counsel, and set date and time of next meeting.

Contact: Ann Moriarty, 201 East 14th Street, Room 907, Austin, Texas 78701, (512) 463-5544.

Filed: April 19, 1988, 4:01 p.m.

TRD-8804038

## Texas Department of Public Safety

Thursday, April 28, 1988, 9:30 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet in the Regional Office, 1922 South Padre Island Drive, Corpus Christi. According to the agenda, the commission will approve min-

utes of the previous meeting; consider budget matters, personnel matters, pending and contemplated litigation, real estate matters, and miscellaneous and other unfinished business.

Contact: Leo E. Gossett, 465-2000, ext. 3700.

Filed: April 19, 1988, 10:28 a.m.

TRD-8804005

## Public Utility Commission of Texas

The Hearings Division for the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Monday, May 2, 1988, 10 a.m. The division will hold a prehearing conference in Docket 8077 to consider the application of Stamford Electric Cooperative, Inc., to change rates.

Contact: Phillip Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 19, 3:13 p.m.

TRD-8804018

Monday, June 20, 1988, 10 a.m. The division will conduct a hearing in Docket 8059, regarding applications of Houston Lighting and Power Company to amend its certificate of convenience and necessity for the South Texas Nuclear Project and the Limestone Electric Generating Station.

Contact: Phillip Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 19, 3:13 p.m.

TRD-8804064

## State Purchasing and General Services Commission

Thursday, April 28, 1988, 9 a.m. The State Purchasing and General Commission will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will consider proposed amendments to rule 115.32 and the adoption of new rule 115.40, and adoption of proposed new rules 125.1-125.21, concerning the State Travel Management Program; hear monthly 3.09 report and report on the status of Texas public finance authority projects; approval of 1989 fiscal year operating budget; consider appeal of Harvey-Moriarty Engineers and Builders; informal briefing by representatives of Bear Stearns on potential future financing of lease-purchase of equipment; and set date and time of next meeting. The commission also will meet in

executive session to consider status of pending litigation, i.e., SME vs. State of Texas, et al and consider the status of potential purchase of real property under Article 601b, §5.34.

**Contact:** John R. Neel, 111 East 17th Street, Austin, Texas, 78701, (512) 463-3446.

**Filed:** April 20, 1988, 8:48 a.m.

TRD-8804060

## Texas Rehabilitation Commission

**Monday, May 9, 1988, 5:30 p.m.** The Media Relations and Public Information Subcommittee of the Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission will meet in the Hyatt Regency Hotel Lobby, 208 Barton Springs Road, Austin. According to the agenda, the subcommittee will consider priority listings of implementation plan objectives (IPO) as it relates to budget constraints, last minute details concerning May 10 Barbara Jordan Awards reception at the governor's mansion, and discuss format for next year's Barbara Jordan entry package.

**Contact:** Virginia Roberts, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8276.

**Filed:** April 19, 1988, 3:42 p.m.

TRD-8804037

## Sunset-Advisory Commission

**Thursday, May 12, 1988, 10 a.m.** The Sunset Advisory Commission will meet in the Senate Chamber, State Capitol. According to the agenda, the commission will approve minutes of the previous meeting; discuss Poultry Improvement Board, Governor's Commission on Physical Fitness, Natural Fibers and Food Protein Commission, Texas Surplus Property Agency, and Texas Guaranteed Student Loan Corporation; and hear presentation on staff report and public testimony on Texas Indian Commission.

**Contact:** Jeri Kramer, J.H. Reagan Building, Austin, Texas, (512) 463-1300.

**Filed:** April 19, 1988, 12:14 p.m.

TRD-8804012

## University Interscholastic League

**Tuesday, March 26, 1988.** The Committee to Analyze Consistency of Rules Among Programs for the University Interscholastic League met in the Stouffer Hotel, Highway 183 North and Capitol of Texas Highway, Austin. According to the agenda, the com-

mittee held a business meeting, recessed for lunch, and heard announcements.

**Contact:** Bonnie Northcutt, P.O. Box 8028, University Station, Austin, Texas 78713, (512) 471-5883.

**Filed:** April 20, 1988, 4:26 p.m.

TRD-8804076

**Wednesday, April 27, 1988, 9 a.m.** The Committee to Review Eligibility and Penalties of the University Interscholastic League will meet at the Stouffer Hotel, Highway 183 North at Capitol of Texas Highway, Austin. According to the agenda, the committee will hold a business meeting, recessing for lunch, and hear announcements.

**Contact:** Bonnie Northcutt, P.O. Box 8028, University Station, Austin, Texas 78713, (512) 471-5883.

**Filed:** April 20, 1988, 4:26 p.m.

TRD-8804075

## Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, rooms, and agendas follow.

**Wednesday, April 20, 1988, 2 p.m.** The commission considered an emergency order requiring Covington Water Works to provide continuous and adequate service in Hill County under certificate of convenience and necessity 10901. The emergency status was necessary inasmuch as water service had been cut off in Hill County which presented an imminent threat to public health and safety, and the commission deemed it a necessity to consider this matter as soon as possible.

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

**Filed:** April 19, 1988, 4:22 p.m.

TRD-8804062

**Monday, May 2, 1988, 10 a.m.** The commission will consider a preliminary enforcement order and petition for order assessing administrative penalties and requiring certain actions of Woody Lesikar Aircraft Sales, permit 12516-01.

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

**Filed:** April 19, 1988, 4:22 p.m.

TRD-8804071

**Monday, May 2, 1988, 11 a.m.** The commission will consider application by Houston 290 Joint Venture for Permit 13328-01 for authorizing a discharge of treated domestic wastewater effluent from the Remington Plant 2 in Harris County.

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

**Filed:** April 19, 1988, 4:22 p.m.

TRD-8804040

**Wednesday, May 4, 1988, 9 a.m.** The commission will consider a preliminary enforcement order and report assessing administrative penalties and requiring certain actions of the City of Cedar Park, Permit 12308-01, and preliminary report and petition for an order assessing administrative penalties and requiring certain actions of Wood Industries (Solid Waste Registration 69092).

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

**Filed:** April 19, 1988, 4:22 p.m.

TRD-8804073

**Thursday, May 5, 1988, 9 a.m.** The commission will meet in Room 1-111 to consider a preliminary enforcement report and petition for order assessing administrative penalties and requiring certain actions of Eddie V. Gray, permit 11720-01; report of substantial noncompliance and petition for order requiring certain actions of the City of Annona, permit 10863-01; and request to remand the matter of the application of Browning-Ferris, Inc., permit WDW-171, Brazoria County.

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

**Filed:** April 19, 1988, 4:22 p.m.

TRD-8804074

**Thursday, May 5, 1988, 10 a.m.** The commission will meet in Room 123 to hear executive director's report on agency administration, policy, budget procedures, and personnel matters.

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

**Filed:** April 19, 1988, 4:22 p.m.

TRD-8804039

**Monday, May 9, 1988, 10 a.m.** The commission will consider application by Luckey Custom Feedlot, Inc., for an amendment to permit 01374, Nueces River Basin, Medina County; application by Cox Packing Company, Inc., for a permit 02885, to authorize disposal from a meat packing plant of wastewater effluent by irrigation and disposal of domestic sewage into a septic tank-drain field disposal system, Medina County, Nueces River Basin, and consider preliminary enforcement report and petition for order requiring certain actions of Exxon Baytown Credit Union (permit 12691-01).

**Contact:** Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.



TRD-8804072

## Regional Meetings

### Meetings Filed April 19, 1988

**The Austin-Travis County MHMR Center**, Board of Trustees, met in Room 107, 611 South Congress Avenue, Austin, on April 22, 1988, at 11 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

**The Education Service Center, Region XIII**, Board of Directors, met in Room 205, 5701 Springdale Road, Austin, on April 25, 1988, at 12:30 p.m. Information may be obtained from Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300.

**The South Texas Development Council**, Board of Trustees and Board of Directors, met in Commissioners Courtroom, Courthouse Annex, Zapata, on April 22, 1988, at 10 a.m. and 11 a.m. Information may be obtained from Robert Mendiola and Julie Saldana, P.O. Box 2187, Laredo, Texas 78044, (512) 722-3995.

TRD-8803991

### Meetings Filed April 20, 1988

**The Ark-Tex Council of Governments**, Executive Committee, will meet in the Wildflower Restaurant, IH 30 and Highway 271 Bypass, Mt. Pleasant, on April 28, 1988, at 5:30 p.m. Information may be obtained from Betty Parrish, P.O. Box 5307, Texarkana, Texas 75505, (214) 832-8636.

**The Central Texas MHMR Center**, Board of Trustees, will meet at 408 Mulberry, Brownwood, on April 25, 1988, at 4:30 p.m. Information may be obtained from Nelda Andrews, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574.

**The Comal Appraisal District**, Board of Directors, met at 430 West Mill Street, New

Braunfels, on April 25, 1988, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, P.O. Box 311222, New Braunfels, Texas 78131-1222.

**The Gulf Bend MHMR Center**, Board of Trustees, will meet at the Thomas G. Kelliher, Jr. Memorial Center, Victoria Regional Airport, Victoria. Information may be obtained from Bill Dillard, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

**The High Plains Underground Water Conservation District, #1**, Board of Directors, will meet in the Conference Room, 2930 Avenue Q, Lubbock, on May 2, 1988, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

**The Lavaca County Central Appraisal District**, Appraisal Review Board, met at 113 North Main, Hallettsville, on April 25, 1988, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The Lee County Appraisal District**, Board of Directors, will meet at 218 East Richmond Street, Giddings, on April 27, 1988, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Leon County Central Appraisal District**, Board of Directors, met at the District Office, Centerville, on April 25, 1988, at 7:30 p.m. Information may be obtained from Robert Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

**The Lubbock Regional MHMR Center**, Board of Trustees, will meet at 3801 Avenue J, Lubbock, on April 25, 1988, at 11:30 a.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0204.

**The Tarrant Appraisal District**, Appraisal Review Board, met in emergency session at the Holiday Inn South, 100 Alta Mesa Boulevard East, Ft. Worth, on April 21, 1988, at 8 a.m. Information may be obtained from Linda Freeman, 2309 Gravel Road, Ft. Worth, Texas 76118, (817) 284-8884.

**The West Central Texas Council of Governments**, Executive Committee, will meet at 1025 East North 10th Street, Abilene, on April 27, 1988, at 12:45 p.m. Information may be obtained from Brad Helbert, (915) 672-8544.

TRD-88094051

### Meetings Filed April 21, 1988

**The Deep East Texas Council on Governments-Area Agency on Aging**, Regional Aging Advisory Council, will meet in the Angelina County Senior Center, 2801 Valley Avenue, Lufkin, on April 29, 1988, at 1 p.m. Information may be obtained from Mary Benson, 118 East Hospital, Suite 308, Nacogdoches, Texas 75961.

**The Gregg Appraisal District**, Appraisal Review Board, will meet at the Holiday Inn, Estes Parkway, Longview, on April 29, 1988, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

**The Lamb County Appraisal District**, Appraisal Review Board, will meet in the LCAD Board Meeting Room, 330 Phelps Avenue, Littlefield, on April 28, 1988, at 7 p.m. Information may be obtained from Murlene J. Godfrey, 330 Phelps Avenue, Littlefield, Texas, (806) 385-6474.

**The Parmer County Appraisal District**, Board of Directors, will meet at 305 Third Street, Bovina, on May 12, 1988, at 8 p.m. Information may be obtained from Ronald E. Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

**The Sabine River Compact Administration**, will meet at OMNI-Royal Orleans Hotel, 621 St. Louis Street, New Orleans, on June 17, 1988, at 9:30 a.m. Information may be obtained from Max J. Forbes, Jr.

**The West Central Texas Council of Governments**, Executive Committee, will meet at 1025 East North 10th Street, Abilene, on April 27, 1988, at 12:45 p.m. Information may be obtained from Brad Helbert, (915) 672-8544.

TRD-8804080



# 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.

## State Banking Board

### Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by First State Bank, Temple, the hearing previously scheduled for Thursday, April 28, 1988, has been cancelled.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804052 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: April 20, 1988

For further information, please call (512) 479-1200.



## Texas Department of Banking

### Notice of Application

Texas Civil Statutes, Article 342-401a, required any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On March 18, 1988, the banking commissioner received an application to acquire control of the First Bank at Farmersville, Farmersville, by David R. Brooks, Ray Feagin, Larry Lane, T.M. Lovell, Jr., Herman and Wayne May, John A. Aston, III, and Bob Tedford of Farmersville, and W.C. Grisham of Blue Ridge.

On April 18, 1988, notice was given that the application would be denied.

Additional information may be obtained from William F.

Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705 (512) 479-1200.

Issued in Austin, Texas, on April 18, 1988.

TRD-8804053 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: April 20, 1988

For further information, please call (512) 479-1200.



### Notice of Hearing Cancellation

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TRD-8804052 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: April 20, 1988

For further information, please call (512) 479-1200.



## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agri- cultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	04/25/88-05/01/88	18.00%	18.00%
Monthly Rate Art. 1.04(c) <sup>(1)</sup>	04/01/88-04/30/88	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/88-06/30/88	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	04/01/88-06/30/88	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	04/01/88-06/30/88	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	04/01/88-06/30/88	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	04/01/88-06/30/88	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	04/01/88-06/30/88	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	05/01/88-05/31/88	10.00%	10.00%

(1) For variable rate commercial transactions only.

(2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.

(3) Credit for personal, family or household use.

(4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on April 18, 1988.

TRD-8804054      Al Endsley  
Consumer Credit Commissioner

Filed: April 20, 1988

For further information, please call (512) 479-1280

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## Governor's Office of Budget and Planning

### Meeting of the Public-Private Partnership Advisory Panel

The first meeting of the Public-Private Partnership Panel will be held May 4, 1988, from 10 a.m. to 4 p.m., at the Governor's Energy Management Center, in Room 412 of the Sam Houston Building, located at 201 East 14th Street in Austin. This panel is being convened to provide expert advice to the governor's office concerning the energy related needs of the non-profit sector and potential private sector partnerships that might be established to address these needs. Members of the panel will discuss these matters from the perspectives of non-profit agencies, state agencies, and private corporations, and will suggest programs that might be funded with oil overcharge refunds in accordance with Senate Bill 33, §21, passed by the second called session, 70th Legislature. The panel will be briefed regarding allowable uses of oil overcharge funds and will develop a schedule for developing the structure and delivery mechanisms of potential programs. For further information, contact Douglas Key at the Energy Management Center, (512) 463-1931.

Issued in Austin, Texas, on April 18, 1988.

TRD-8803989      Robert E. Davis  
Director  
Governor's Office of Budget and Planning

Filed: April 19, 1988

For further information, please call (512) 463-1931.

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## Texas Department of Health

### Intent to Revoke an in Vitro General License Acknowledgement

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of In Vitro Testing General License Acknowledgement 6-1446, issued to Wortham Hospital Laboratory, P.O. Box 428, Wortham, Texas 76693, because the company has been dissolved.

All attempts by the agency to obtain a request for termination from the licensee have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the general license acknowledgement be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* 13.8, this notice affords the opportunity for a hearing to show cause why the general license acknowledgement should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3819. Should no request for a hearing be timely filed, the general license acknowledgement will be revoked at the end of the 30-day

period of notice.

Issued in Austin, Texas, on April 18, 1988.

TRD-8804044      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 458-7236.

◆        ◆        ◆

## Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted amendments to the following radioactive material licenses:

License L03903 issued to Syncor International Corporation, for their facility located in San Antonio, (mailing address: Syncor International Corporation, Creekview Garden Offices, Suite 602, 8600 Wurzbach, San Antonio, Texas 78240);

License L03910, issued to Syncor International Corporation for their facility located in Austin, (mailing address: Syncor International Corporation, 6448 Highway 290 East, Building F, Number 102, Austin, Texas 78723); and

License L03919, issued to Syncor International Corporation for their facilities located in Houston, (mailing address: Syncor International Corporation, 6950 Portwest Drive, Suite 190, Houston, Texas 77024).

The amendments to these licenses designate new radiation safety officers for each facility.

The division of licensing, registration and standards has determined that:

(a) the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment;

(b) the licensee's equipment, facilities and procedures are adequate to minimize danger to public health and safety, and the environment;

(c) the issuance of the license amendments should not be inimical to public health and safety, or have a detrimental impact on the environment; and

(d) the licensee satisfies any applicable special requirements of the TRCR.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), and as set out in TRCR 13.6. A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If a person is represented by an agent, the

name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendments will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to these amendments of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804041      Robert A. MacLean  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.

### Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order:

Order of revocation issued November 18, 1987, to Exclusive Dental Service, 10218 Palm Shadow, Houston, Texas 77075.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday - Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on April 19, 1988.

TRD-8804043      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.

### Revocation of Certificates of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation Part 13.8, has revoked the following certificate of registration.

Fondren Southwest Chiropractic Clinic; R14888; Houston; March 24, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday through Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on April 19, 1988.

TRD-8804046      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation Part 13.8, has revoked the following certificates of

registration.

Equine Hospital; R12528; Canyon; March 8, 1988.

Lubbock Diagnostic Services, Inc.; R14391; Lubbock; March 8, 1988.

American Medicenters, Inc.; R14307; Wichita Falls; March 8, 1988.

Orthopedic Surgery and Fractures; R08502; Plano; March 8, 1988.

Sunnyland Medical Clinic; R10038; Bryan; March 8, 1988.

G.E. Hamilton, D.D.S.; R08164; Houston; March 8, 1988.

Zeagler Equipment and Supply Company, Inc.; R12335; Houston; March 8, 1988.

David H. Sand, D.P.M.; R11250; Houston; March 8, 1988.

Overton Memorial Hospital; R00340; Overton; March 8, 1988.

Ina Health Plan of Texas; R10532; Dallas; March 8, 1988.

Research Concepts Incorporated; R10147; Houston; March 8, 1988.

San Jacinto County Health Services; R07908; Coldspring; March 8, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday through Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on April 18, 1988.

TRD-8804048      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation Part 13.8, has revoked the following certificates of registration.

Jack E. Burroughs, D.D.S.; R07873; Houston; March 21, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday - Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on April 19, 1988.

TRD-8804042      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.

### Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation Part 13.8, has revoked the following radioactive material licenses.

Imtex Inspection Laboratories, Inc.; L03805; Houston;

March 24, 1988.

Texas Tubular Testers, Inc; L02841; Houston; March 24, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday through Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on April 19, 1988.

TRD-8804047      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.



The Texas Department of Health, having duly filed complaints pursuant to *Texas Regulations for Control of Radiation* Part 13.8, has revoked the following radioactive material licenses.

Double E Perforators; L03402; Pampa; March 24, 1988.

Fred Simon, M.D.; L03407; Houston; March 24, 1988.

Injection Engineering Services; L00141; Midland; March 24, 1988.

West Texas Imaging; L03894; Denton; March 24, 1988.

W.A. Neel Company, Incorporated; L02741; Marshall; March 24, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, Monday - Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on April 19, 1988.

TRD-8804045      Robert A. MacLean  
Deputy Commissioner Professional Services  
Texas Department of Health

Filed: April 19, 1988

For further information, please call (512) 835-7000.



## Texas Parks and Wildlife Department Correction of Error

The Texas Parks and Wildlife Department submitted a proposed section containing an error as published in the April 8, 1988, issue of the *Texas Register* (13 TexReg 1674).

In §65.45, subsection (b) should read: "**(b) Bag limit: 15 quail per day** [In all counties, the commission has deferred adopting quail daily bag and possession limits until annual late summer production surveys are evaluated]. "



## Texas State Board of Physical Therapy Examiners

### Correction of Error

The Texas State Board of Physical Therapy Examiners submitted adopted sections which contained an error as published in the January 1, 1988 issue of the *Texas Register* (13 TexReg 55).

In the preamble to Chapter 341, the first paragraph should read: "The Texas State Board of Physical Therapy Examiners adopts §§341.1-341.3 with changes to the proposed text published in the September 18, 1987, issue of the *Texas Register* (12 TexReg 3255). Section 341.4 is adopted without changes to the proposed text and will not be republished."



## Texas Department of Public Safety Consultant Contract Award

The Texas Department of Public Safety (DPS), in accordance with provisions of Texas Civil Statutes, Article 6252-11c, announces the awarding of a personal service contract to George Griffin to evaluate and develop plans for the implementation of provisions mandated by Title XII, Public Law 99-750, Commercial Motor Vehicle Safety Act of 1986 (CMVSA-86).

The solicitation for proposals was published in the *Texas Register*, March 4, 1988 (13 TexReg 1162).

The consultant is to advise the project director on technical and practical matters concerning driver testing, driver records, and license issuance. The consultant is to assist the project director in the design and development of an implementation plan for CMVSA-86 that will allow the DPS to meet the mandates of the law in a prudent and timely manner, including the receipt of federal grants available for planning and implementing the provisions of CMVSA-86.

Only one bid was received in response to this solicitation for proposal from a former Department of Public Safety employee, retired. The bid was from George Griffin, former chief of driver and vehicle records. This individual is eminently qualified to perform the tasks required.

The consultant awarded the contract to: George Griffin, 1708 Aggie Lane, Austin, Texas 78757.

The consultant contract will begin April 13, 1988, and end September 30, 1988. The total value of the contract is an amount not to exceed \$12,800, including travel reimbursement.

The contract is to design a plan and assist the DPS in implementation of the plan to meet the mandates and time constraints of the Commercial Motor Vehicle Safety Act of 1986. A formal final report or work product by the contractor is not required.

Issued in Austin, Texas, on April 13, 1988.

TRD-8804035      Leo E. Gossett  
Director  
Texas Department of Public Safety

Filed: April 19, 1988

For further information, please call (512)465-2000.





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(612) 228-2500

GERARD L. CAFESJIAN  
Vice President  
Marketing and Sales

Dear Texas Register Subscriber,

We at West Publishing are very pleased to announce that we have signed an agreement with the state of Texas to publish the Official Texas Administrative Code (TAC). Texas Secretary of State Jack Rains, in his February news release, said, "I am pleased to see a company with West's credentials and experience undertaking this job. Texans deserve to have access to the state's constantly changing rules and regulations. They cannot afford to wait more than a year for updates."

With West as the official publisher of the TAC, you will not have to wait more than a year for updates; we plan on supplementing the TAC as often as necessary to keep you current. In addition to regular updates, the West Official TAC will continue to be supplemented twice each week by the Texas Register.

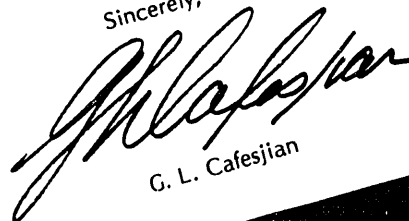
As this letter is being written, the following TAC titles are being scheduled for publication:

Title 1	Administration
Title 7	Banking and Securities
Title 16	Economic Regulation
Title 19	Education
Title 25	Health Services
Title 28	Insurance
Title 31	Natural Resources and Conservation

We will be publishing the TAC in softbound pamphlet form, which is much easier to use and maintain than a looseleaf service. If you've ever subscribed to a looseleaf service, you know how easily material can be misfiled or important information can be discarded. And you know how expensive it can be! West also plans to immediately add a workable index.

We will be notifying you in the very near future as to the exact publication dates and prices of the TAC. We look forward to fulfilling your needs for accurate, easy-to-use and timely Texas Administrative Code Titles and updates. Please feel free to contact Myrna Currier at 1-800-328-9352 with any comments or questions that you might have.

Sincerely,



G. L. Cafesjian