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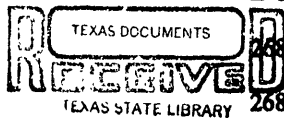
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Texas Register

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

Governor—appointments, executive orders, and proclamations

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

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

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Open Meetings—notices of open meetings

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

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

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

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "13 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 13 TexReg 3."

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, 503E Sam Houston Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number.

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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

Subscriptions—one year (96 regular issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues are available at \$3 per copy.

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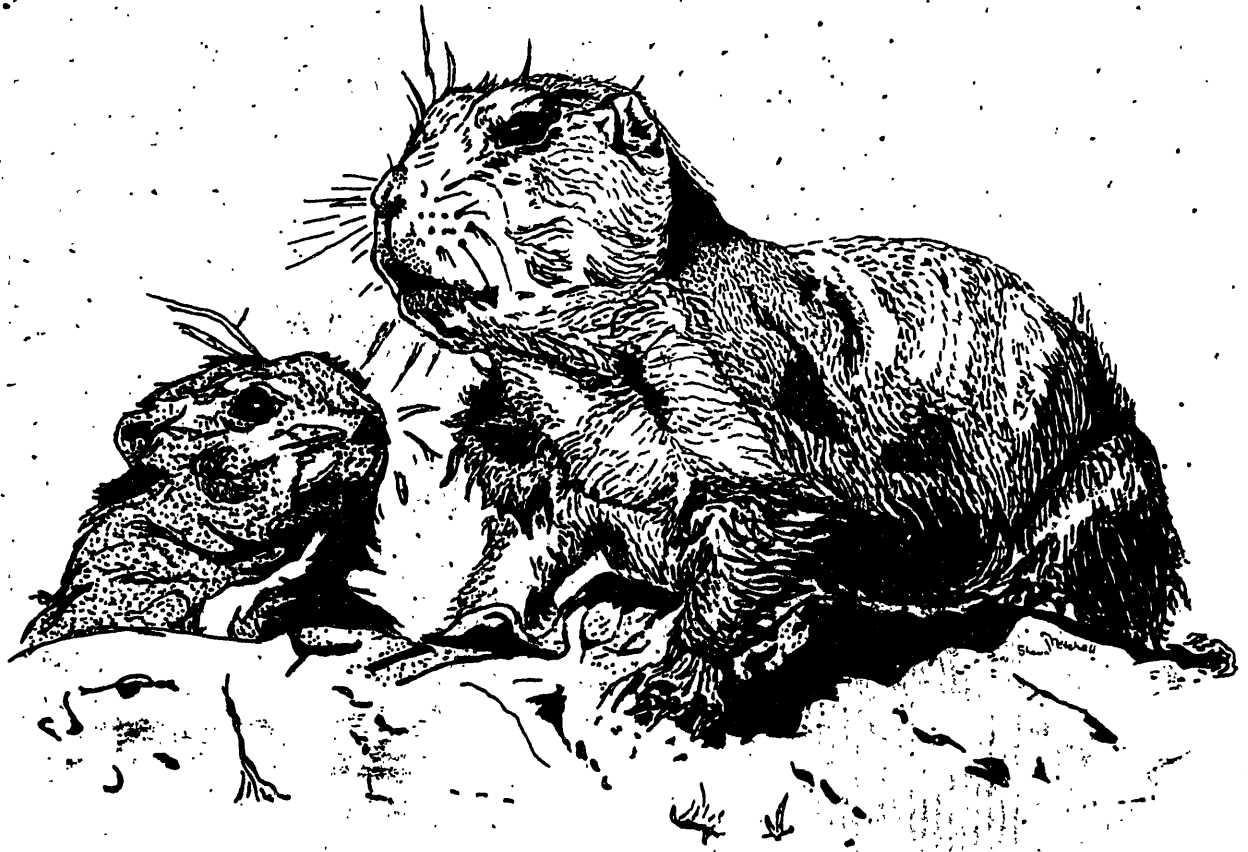
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TAC Titles Affected

TAC Titles Affected—April

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The Governor

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

Appointments Made May 23, 1988

To be chairman of the Agricultural Diversification Board for a term to serve at the pleasure of the Governor: Milton Jay Anderson, Route Box 62, East Bernard, Texas 77345. Pursuant to House Bill 49, 70th Legislature, and the Texas Agricultural Code, §44.003.

To be a member of the Family Farm and Ranch Advisory Council for a term to expire January 31, 1993: Ted F. Conover, P.O. Box 1170, Tyler, Texas 75710. Mr. Conover is replacing Virginia Armstrong of Dimmitt whose term expired.

To be a member of the Texas Diabetes Council for a term to expire February 1, 1990: Maurilia Flores Rodriguez, 1200 Central Boulevard, #A4, Brownsville, Texas 78520. Mrs. Rodriguez will be replacing Dr. Maria Luisa Urdanetta of San Antonio whose term expired.

To be a member of the Teachers' Professional Practices Commission for a term to expire August 31, 1989: Hazel Marie Moye, 1418 Larkspur, McAllen, Texas 78501. Mrs. Moye will be replacing Louise Daniel of Amarillo whose term expired.

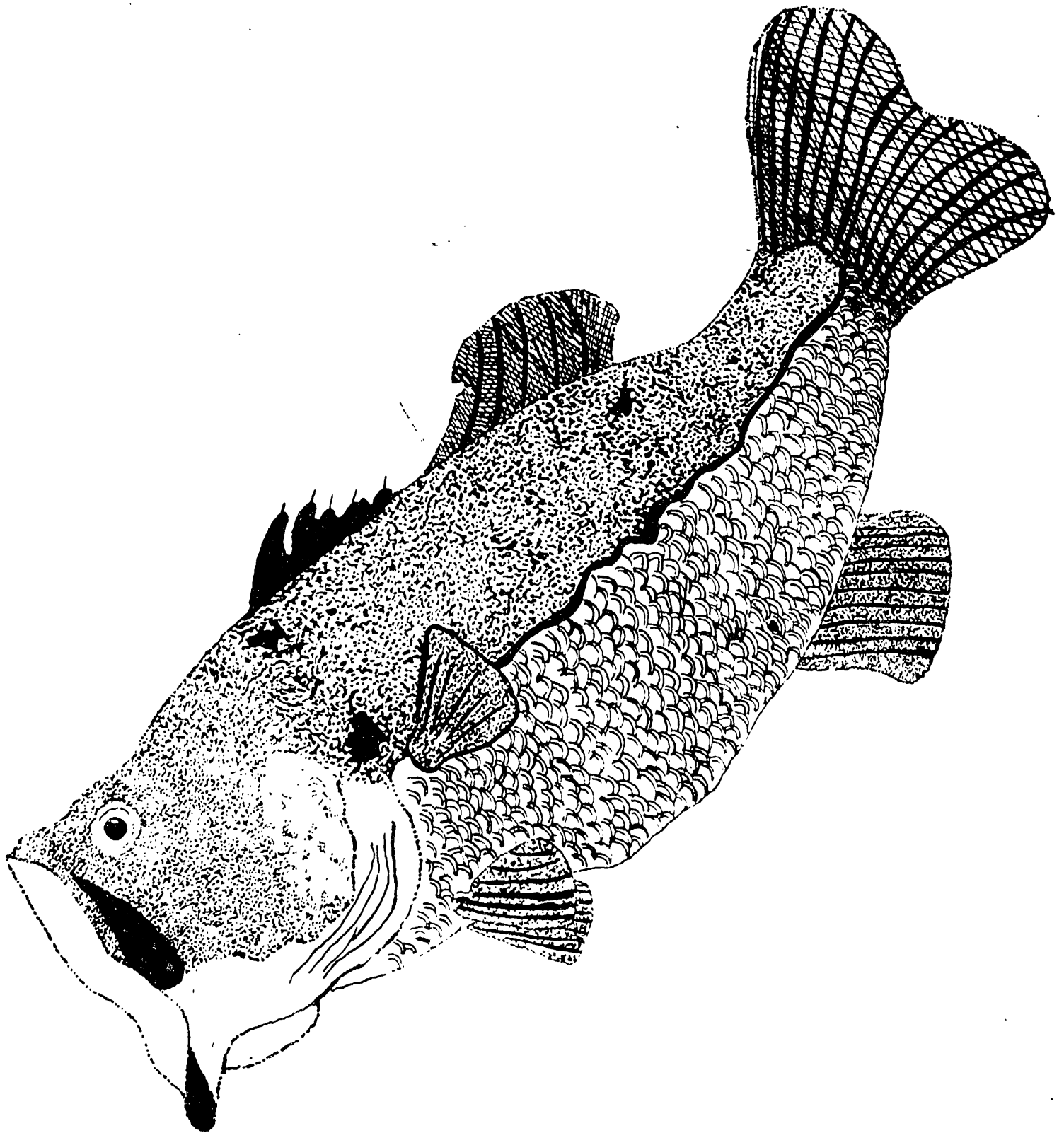
To be a member of the District Four Review Committee, Board of Medical Examiners for a term to expire January 15, 1994: Luis M. Rios, M.D., 1801 South Fifth, Suite 105, McAllen, Texas 78503. Dr. Rios will be replacing Dr. Harold R. High of Cuero whose term expired.

Issued in Austin, Texas on May 24, 1988.

TRD-8805289

William P. Clements, Jr.
Governor of Texas





Name: Allan Smith
Grade: 11
School: Marshall High, Marshall

Emergency Sections

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

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

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Minimum Standards for Fire and Arson Investigative Personnel

37 TAC §233.61

The Commission on Fire Protection Personnel Standards and Education adopts on an emergency basis an amendment to §233.61, concerning a basic fire and arson investigator certificate, which lists training and certification requirements for full-time, full-paid fire protection personnel. This section is a separate section from §233.66, which lists training and certification requirements for law enforcement personnel.

The amendment is adopted on an emergency basis due to a large increase in arson fires in Texas over the past two years. The amendment is necessary to public safety in order for fire personnel to prevent or investigate arson fires.

The amended section is adopted on an emergency basis under Texas Civil Statutes, Article 4413(35), §2, (Recodified as the Government Code, Executive Branch, Chapter 416) which provide the Commission on Fire Protection with the authority to promulgate rules and regulations necessary to carry out the provisions of the Act.

§233.61. Basic Fire and Arson Investigator Certificate. All full-time, full-paid fire and arson investigators employed by any political subdivision in Texas must possess a current basic peace officer's certificate and license from the Commission on Law Enforcement Officers Standards and Education, and successfully complete the training requirements in §233.61 of this title (relating to Basic Fire and Arson Investigator Certificate), in order to obtain certification from the Commission on Fire Protection Personnel Standards and Education. Applicants for certification must complete all requirements

within one year from date of initial appointment to such position. Applicants must serve one year as a fire and arson investigator in order to be eligible for certification. [Fire department fire and arson investigators must possess a current police officer basic certificate issued by the Texas Commission on Law Enforcement Standards and Education as a prerequisite and must complete within two years from date of appointment to such position, the following subjects in order to be certified. Applicant must also have served in such position for a period of one year prior to the issuance of a certificate in this discipline.]

(1)-(22) (No change.)

Issued in Austin, Texas, on May 23, 1988.

TRD-8805259

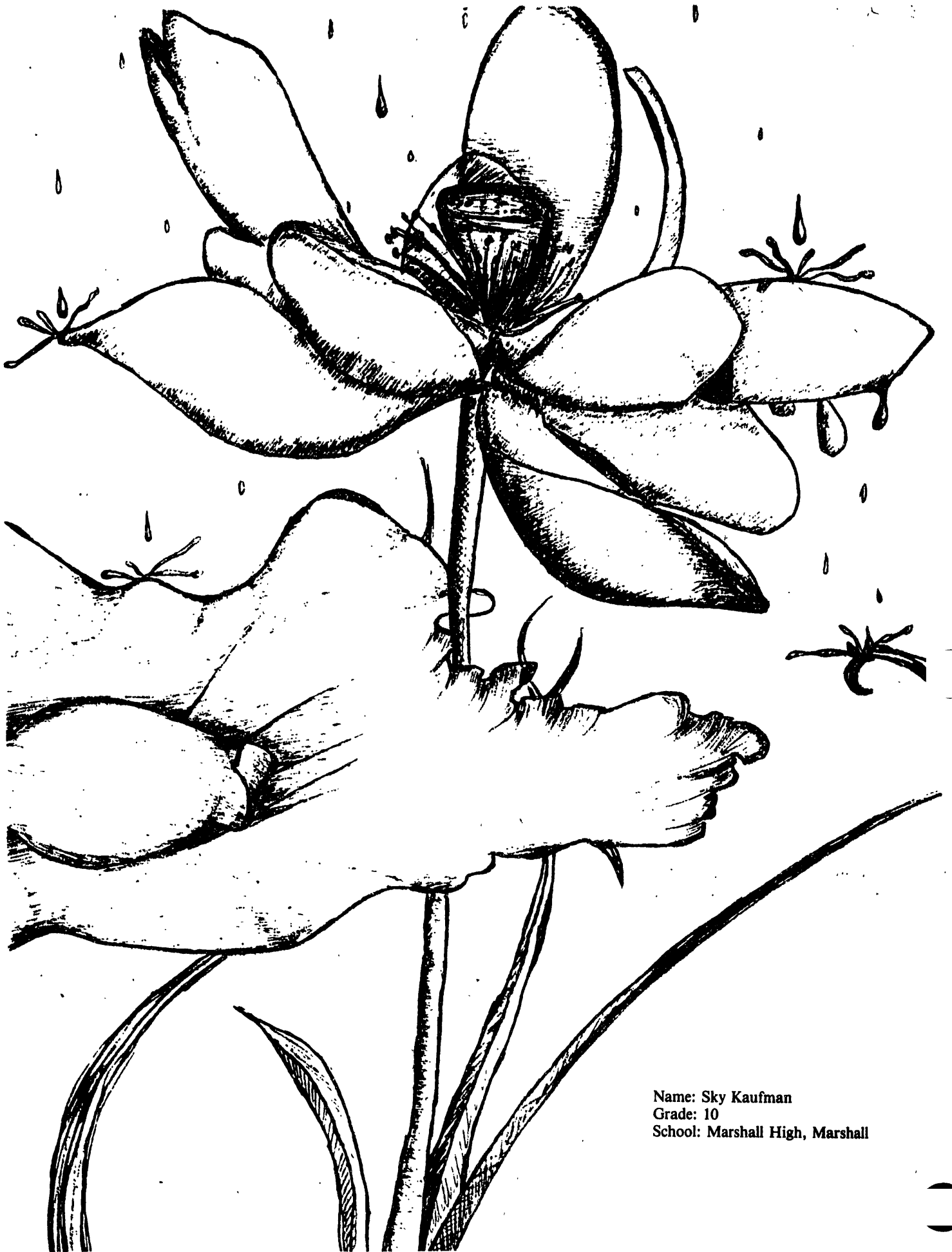
Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and
Education

Effective date: May 23, 1988

Expiration date: August 21, 1988

For further information, please call: (512) 474-8066





Name: Sky Kaufman
Grade: 10
School: Marshall High, Marshall

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 1.

ADMINISTRATION

Part III. Office of the Attorney General

Chapter 55. Child Support Enforcement

Subchapter C. Enforcement

1 TAC §55.101

The Office of the Attorney General proposes an amendment to §55.101, concerning the form used to request an administrative hearing. The text of §55.101 is not changed; the amendment affects only the form which was adopted by reference and which may be obtained from the Attorney General's Office. The form in question is used by noncustodial parents who owe past due child support to request a hearing when they have been informed that their income tax return will be intercepted to pay their past due support obligation or that their nonpayment of support will be reported to a consumer credit reporting agency. The format has been changed to expedite its processing, but its content remains essentially the same.

Neill Coble, director of fiscal operations, Texas Attorney General's Child Support Enforcement Division, 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. Coble 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 none. 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 Lee Bukstein, Assistant Attorney General, Child Support Enforcement Division, P.O. Box 12548, Austin, Texas 78711.

The amendment is proposed under the Texas Human Resources Code, Chapter 76, which provides the Office of the Attorney General with the authority to administer the Texas Child Support Enforcement Program established under Title IV-D of the United States Social Security Act.

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 May 24, 1988.

TRD-8805328

Lou McCreary
Special Assistant
Office of the Attorney
General

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-2040

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 15. Consumer Services Division

• 4 TAC §15.11

The Texas Department of Agriculture proposes an amendment to §15.11, concerning registration fees for livestock scales on private ranches. The Texas Department of Agriculture proposes to reduce the registration fee for livestock scales located on private ranches from \$80 to \$10 per scale. At the same time the department will reduce its annual inspection of these scales from 100% of the total to between 10% and 20% of the total. The department will permit TDA-registered scale service companies to affix a seal, devised by the department, to livestock scales they service, provided the scale meets TDA standards of accuracy. The seal shall state that the scale has been serviced by a serviceperson registered with the Texas Department of Agriculture. The fee for large non-ranch scales remains at \$80 per scale.

Susan Raleigh, director, consumer services division, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five year period the section will be in effect will be an estimated reduction in cost of \$199,251 for each fiscal year from 1988-1992. There will be an estimated loss in revenue of \$62,580 for each fiscal year from 1988-1992. The cost of compliance with the section for small businesses will be \$10 per device per year. Average cost per rancher will be \$10 per year. This estimate assumes that each ranch has an average of one scale. The cost for large and small businesses would be the same, \$10 per scale.

Ms. Raleigh 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 fewer tax dollars will be spent on the inspection of livestock scales on private ranches. These scales are not widely used by the public, compared to other devices inspected under TDA's Weights and Measures Program, such as gasoline pumps and grocery scales. The anticipated economic cost to individuals who are required to comply with the section as proposed will be \$10 per scale plus the cost of private scale servicing on a voluntary basis.

Comments on the proposal may be submitted to Susan Raleigh, Director, Consumer Services Division, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under Texas Agriculture Code, §13.1151, which provides the Texas Department of Agriculture with the authority to charge a fee for the registration of scales registered under §13.1011, such fee not to exceed \$80 for scales with capacities of 4,999 pounds or more.

§15.11. Collection and Assessment of Fees for Testing, Weighing, and Measuring Devices.

(a) (No change.)

(b) Fees for registering weighing and measuring devices. Prior to the operation of a weighing or measuring device in a commercial transaction, the owner or operator of such device shall register with the department by paying the established registration fee for each such device in accordance with the following schedule:

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

(5) **livestock scales located on private ranches (capacity 4,999 pounds or greater) \$10;**

(6) **other large scales (capacity 4,999 pounds or greater) \$80.**

(c) (No change.)

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

Issued in Austin, Texas, on May 25, 1988.

TRD-8805331

Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-7583

Chapter 21. Seed Certification Standards

Acresage Inspection Fees for Certification

• 4 TAC §21.31

The Texas Department of Agriculture proposes an amendment to §21.31, concerning acresage inspection fees for certification. The amendment adds additional crop kinds to the acresage inspection fee chart and adds fees for late inspections, reinspections, and interagency certification. The amendment makes the regulation consistent with the provisions of the Federal Seed Act.

Kenneth Boatwright, director, Seed and Grain Warehouse Program, 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. Boatwright 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 assure that the rules and regulations of the Texas Department of Agriculture are in agreement with the provisions of the Federal Seed Act. 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 Kenneth Boatwright, Director, Seed and

Grain Warehouse Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7615.

The amendment is proposed under Texas Agricultural Code, Chapter 62, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the code.

§21.31. Inspection Fees for Certification. The following inspection fees for certification chart, as amended, designates fees per acre for various crop kinds as required for seed certification for genetic identity only. Copies may be obtained from Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7614.

Acreage Inspection Fees For Certification
Table 1

	All Classes
Agrotricum	\$.52
Alfalfa	1.04
Buckwheat	.52
Cantaloupe	5.20
Clover (all kinds)	1.04
Corn	3.25
Cotton	.24
Cowpea, field bean, flat pea, & partridge pea	1.04
Flax & rape	1.30
Forest tree seed	5.20
Forest tree seedlings	42.00
Grass (seeded)	4.16
Grass (vegetatively propagated)	10.00
Guar	3.25
Illinois Bundleflower, & englemanna daisy	3.25
Millet (foxtail & pearl)	1.04
Millet (gahi & hybrids)	2.73
Okra & pepper	3.25
Peanut	.78
Small grain	.52
Rice	3.25
Sorghum (open-pollinated)	.91
Sorghum (commercial hybrids)	2.73
Sorghum (A, B, & R Lines)	7.80
Soybean & mungbean	.60
Sugar Cane	5.20
Sunflower (commercial hybrids)	2.60
Sunflower (A & R Lines)	7.80
Sunflower (open-pollinated), bushsunflower, maximillian	2.60
Watermelon	5.72

\$20 fee for EACH production field applied on for certification

Late fee: \$20 per field

Reinspection fee: Not less than \$20 per field

Interagency certification: \$75 per lot

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 May 25, 1988.

TRD-8805329 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-7583

Genetic Seed Chart

• 4 TAC §21.51

The Texas Department of Agriculture proposes an amendment to §21.51, concerning genetic seed certification standards-isolation distances and footnotes. The proposed amendment adds additional crops, thereby listing all crops that are produced under the Texas Certification Program. Proposed amendments to footnotes clarify language and make the regulation consistent with the Federal Seed Act.

Kenneth Boatwright, director, seed and grain warehouse program, 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. Boatwright 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 assure that the rules and regulations of the Texas Department of Agriculture are in agreement with the provisions of the Federal Seed Act. 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 Kenneth Boatwright, Director, Seed and Grain Warehouse Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7615.

The amendment is proposed under Texas Agricultural Code, Chapter 62, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the code.

§21.5. Genetic Seed Certification Standards. The Seed Certification-Isolation distances chart and footnotes, as amended May, 1988 [July 1986], that delineate isolation distances are adopted by reference for the purpose of seed certification for genetic identity only. Copies may be obtained from the Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7614.

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 May 25, 1988.

TRD-8805330 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-7583

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

• 7 TAC §109.13

The State Securities Board proposes an amendment to §109.13, concerning the uniform limited offering exemption. This section was amended by emergency rule effective May 4, 1988, issue of the *Texas Register* (13 TexReg 2205), and these proposed amendments are the same as the temporary amendments. The amendments incorporate the release numbers of rule changes made by the Securities and Exchange Commission to its Regulation D, which changes were endorsed by the North American Securities Administrators' Association, Inc. for inclusion in its Uniform Limited Offering Exemption (ULOE). The section reflects the Texas version of the ULOE, and must be amended as noted if Texas' exemption is to remain uniform with the federal and other states' exemptions.

Richard D. Latham, securities commissioner, 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. Latham also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the retention in Texas of the uniform limited offering exemption requirements as they now exist among the states, thereby allowing issuers to continue to structure securities offerings in such a manner that compliance with only one set of uniform conditions is required. 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 Denise Voight Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§109.13. Limited Offering Exemptions.

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

(k) Uniform limited offering exemption. In addition to sales made under the Texas Securities Act, §5.I, the State Securities Board, pursuant to the Act, §5.T, exempts from the registration requirements of the Act, §7, any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D, Rules 230.501-230.503, 230.505, and 230.506 as made effective in United States Securities and Exchange Commission Release 33-6389 and as amended in Release Numbers 33-6437, 33-6663, and 33-6758, and which satisfies the following further conditions and limitations.

(1)-(16) (No change.)

(l) (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 May 24, 1988.

TRD-8805302 Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 474-2233

Chapter 115. Dealers and Salesmen

• 7 TAC §115.3

The State Securities Board proposes an amendment to §115.3, concerning examination requirements for dealers and salesmen. The amendment clarifies that a partial waiver of the examination requirements of the Securities Act, §13.D, is granted by the board for applicants who are certified by the International Board of Standards and Practices for Certified Financial Planners, Inc. to be certified financial planners.

Peggy Peters, director, Dealer Registration Division, 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. Peters 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 notice of the fact that a partial waiver of the examination requirements is available for applicants who meet the criteria set forth in the amendments. 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 Denise Voight Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§115.3. Examination.

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

(c) Exemptions.

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

(3) A partial waiver of the examination requirements of the Securities Act, §13.D, is granted by the board for the following classes of persons:

(I) applicants who are certified by the International Board of Standards and Practices for Certified Financial Planners, Inc. to be certified financial planners are not required to take the general securities portion of the examination, but must pass the examination on state securities law as required by subsection (b)(2) of this section.

(4) (No change.)

(d)-(f) (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 May 24, 1988.

TRD-8805301

Richard D. Latham
Securities and
Commissioner
State Securities Board

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 474-2233

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part I. Railroad
Commission of Texas**
**Chapter 3. Oil and Gas
Division**
**Natural Gas Policy Act
(NGPA) Determination
Procedures**

• 16 TAC §3.102

The Railroad Commission of Texas proposes an amendment to §3.102, concerning NGPA application procedures. The proposed amendment establishes a procedure for administrative approval of requests for tight formation determinations made pursuant to 18 Code of Federal Regulations §271.703 (1987) ("Tight formations"). In Texas, the Railroad Commission reviews such requests and, if the commission finds that the federal criteria are met, makes the determination that

the area is a designated tight formation area. The commission then forwards the tight formation determination to the Federal Energy Regulatory Commission for finalization under that agency's procedures. The Railroad Commission determination is not final for NGPA purposes until after Federal Energy Regulatory Commission finalization. Current Railroad Commission procedure requires a hearing to consider each request for a tight formation determination. Under the proposed amendment the Railroad Commission staff will mail notice of the application to all affected parties. If the technical staff is satisfied with the technical data submitted, the requirements of which are set out in the proposed amendment, and if no protest is filed within 21 days of the notice, the application will be presented to the commission for approval of the recommendation. If the technical staff is not satisfied with the data, or if a protest is filed within the notice period, the applicant may request a hearing to consider the application. If the applicant does not request such a hearing, the application will be dismissed. If no protest appears at a hearing to consider an application for a tight formation determination, the application will be presented to the commission for approval of the recommendation, if the federal criteria are met.

Rita Percival, systems analyst, Oil and Gas Division, 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.

Bob Biard, staff attorney, Legal Division, 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 increased natural gas exploration and production. 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 Bob Biard, Oil and Gas Section, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. The docket number is 20-91,827. The deadline for filing comments is 5 p.m. on July 1, 1988.

This amendment is proposed pursuant to the Texas Natural Resources Code, Title 3, Subtitle A, §81.052, which authorizes the Railroad Commission of Texas to adopt all necessary rules for governing and regulating persons and their operations under its jurisdiction, including such rules as may be necessary and appropriate to implement state responsibility under any federal law or rules governing such persons and their operations.
§3.102. Application Procedure.

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

(f) An applicant requesting a tight formation determination must submit a written request to the NGPA Section of the Oil and Gas Division for a determination that a named formation or a specific portion thereof is a tight formation. The applicant must supply a list of the names and addresses of all affected persons. For purposes of this subsection, "affected persons" means all first purchasers from all wells (regardless of op-

erator) within the specific portion of the named formation and all operators in the same field or fields involved. The staff will mail notice of the application to all affected persons. If the technical staff is satisfied with the data submitted with the application, the requirements of which are set out below, and if no protest is filed within 21 days of the notice, the application will be presented to the Railroad Commission for approval of the recommendation. If the technical staff is not satisfied with the data submitted, or if a protest is filed within the 21-day notice period, the applicant may request a hearing to consider the application. If the applicant does not request such a hearing, the application will be dismissed. Any such hearing shall be held only after at least ten days notice to all affected persons. If no protest appears at the hearing, the application will be presented to the Railroad Commission for approval of the recommendation if the application and any evidence presented at the hearing establishes that the subject formation meets the prescribed requirements for a tight formation determination. A Railroad Commission tight formation determination is not final for NGPA purposes until after Federal Energy Regulatory Commission finalization. Individual well filings for a determination that natural gas from the wells is being produced from a designated tight formation will not be forwarded to the Federal Energy Regulatory Commission until after the subject tight formation determination is final for NGPA purposes. In addition to the written request and list of affected parties, the applicant must submit the following information:

(1) a geographical and geological description of the formation including:

(A) a map outlining the geographic limits of the formation, counties involved, boundaries, abstract numbers, survey names, and field name(s); and

(B) a structure map contoured on the top of the formation, a regional cross-section to depict upper and lower limits of the formation, and depositional history; and

(C) a list of the counties involved, abstract numbers, survey names, geologic formation markers, and any other relevant descriptive information that will aid in identifying the subject formation;

(2) engineering and geological data establishing the following (including a written explanation of each exhibit):

(A) average in situ

permeability throughout the pay zone, of 0.1 millidarcy or less; or, if the average in situ permeability exceeds 0.1 millidarcy, that the formation otherwise exhibits low permeability characteristics

as evidenced by economic data showing the extraordinary costs associated with the stimulation work used and the net results obtained therefrom (See 18 Code of Federal Regulations §271.703(c)(2)(D)(ii),(v));

(B) a stabilized production rate, without stimulation, against atmospheric pressure, of wells completed for production in the formation not expected to be in excess of the production rate determined in accordance with the following table:

If the average depth to the
top of the formation (in feet)

The maximum
allowable
production rate (in
thousand cubic feet
per day) may not
exceed-

exceeds-	but does not exceed-	
0	1,000	44
1,000	1,500	51
1,500	2,000	59
2,000	2,500	68
2,500	3,000	79
3,000	3,500	91
3,500	4,000	105
4,000	4,500	122
4,500	5,000	141
5,000	5,500	163
5,500	6,000	188
6,000	6,500	217
6,500	7,000	251
7,000	7,500	290
7,500	8,000	336
8,000	8,500	388
8,500	9,000	449
9,000	9,500	519
9,500	10,000	600
10,000	10,500	693
10,500	11,000	802
11,000	11,500	927
11,500	12,000	1,071
12,000	12,500	1,238
12,500	13,000	1,432
13,000	13,500	1,655
13,500	14,000	1,913
14,000	14,500	2,212
14,500	15,000	2,557

(C) that no well drilled into the formation is expected to produce, without stimulation, more than five barrels of crude oil per day; and

(D) If the formation or any portion thereof is authorized to be developed by infill drilling, that such formation or portion subject to infill drilling cannot be developed absent the incentive price. If the Railroad Commission determines that such formation or portion subject to infill drilling can be developed absent the incentive price, then the Railroad Commission shall not include such formation or portion thereof in its tight formation determination. For purposes of this subparagraph, "infill drilling" exists when the formation or portion thereof is considered substantially developed subject to requirements respecting well spacing or proration units, and such requirements were amended by the Railroad Commission to provide for smaller proration units for more effective and efficient drainage of the reservoirs in the formation. If infill drilling exists, the applicant must provide the present field rules and Railroad Commission docket numbers for any change in the field rules that previously occurred in the area;

(3) a map or list of the wells that are currently producing in the formation; and

(4) evidence that any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply will not be adversely affected by the tight formation determination. The applicant may submit copies of letters from the Texas Water Commission signifying the depth to which fresh water must be protected in the subject area or proof of exceptions to Railroad Commission Statewide Rule 13(b)(2)(A)(i) (16 TAC §13(b)(2)(A) (i)) concerning surface casing requirements.

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 May 23, 1988.

TRD-8805278

G. Gail Watkins
Director, Legal Division
Railroad Commission of
Texas

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-6921



TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 61. School Districts

Subchapter A. Operational Basis

• 19 TAC §61.2

The Texas Education Agency proposes an amendment to §61.2, concerning the school district annual performance report. The current section requires school districts to collect local data on dropouts and publish it as part of the report. House Bill 1010, 70th Legislature, requires the agency to collect and publish detailed standardized information on dropouts beginning in the fall of 1988. To avoid confusion about dropout data this fall, the requirements for the annual performance reports are amended to delete for this fall only the requirement that districts include dropout data in the annual performance report, since the locally developed data will be superceded by the statewide dropout data collection through the public education information management system (PEIMS) and the statewide PEIMS data will not be available in time for the 1988 fall report. The section is also amended to provide that the agency will provide school districts with standardized dropout information, based on data submitted to the agency, for inclusion in the annual performance report, beginning with the report for the 1988-1989 school year.

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.

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 amendment is proposed under the Texas Education Code, §21.258, which directs the State Board of Education to make rules prescribing the form and content of the annual performance report.

§61.2. School District Annual Performance Report.

- (a) (No change.)
- (b) Detailed information concerning the annual performance report.
 - (1) (No change.)
 - (2) Agency-developed statistical performance section.

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

(E) Beginning with the report for school year 1988-1989, the Central Education Agency shall supply school districts which standardized dropout information, based on the data submitted to the agency for that purpose. For the 1987-1988 reports, districts may report dropout data utilizing standardized dropout information required under §61.64 of this title (relating to Dropout Reporting).

(3) Local data sections of the annual performance report. Data such as the following shall be included in the locally-developed data section of the annual performance report. Optional data may be included at the discretion of the local district:

(A) achievement tests (mandatory);

[(B) dropouts (mandatory)];

(B)[(C)] discipline (mandatory);

(C)[(D)] detailed program costs (optional);

(D)[(E)] facilities (optional);
and

(E)[(F)] longitudinal student data (optional).

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 May 17, 1988.

TRD-8805225

W. N. Kirby
Commissioner of Education

Proposed date of adoption: July 9, 1988

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

Chapter 75. Curriculum

Subchapter C. Essential

Elements-Grades Seven-Eight

• 19 TAC §75.49

The Texas Education Agency proposes an amendment to §75.49, concerning business education at grades seven and eight. The amendment adds career investigation (1/2 unit) as a course in the business education section. The essential elements for career investigation are set out in §75.50 (relating to Vocational Education). The amendment clarifies that the course may be taught as a vocational or general education course.

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.

tions for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moak and Dr. 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 flexibility for local school districts in delivery of the essential elements for career investigation. 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 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 amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the well-balanced curriculum. §75.49. *Business Education*.

(a) Typewriting (keyboarding), middle school (1/2-one unit). Typewriting (keyboarding), middle school, shall include the essential elements in this subsection [section]. Typewriting offered for one semester must include the elements in paragraphs (1)-(3) of this subsection [section]. Typewriting offered for two semesters must include all of the element in this subsection [section].

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

(b) Career investigation (1/2 unit). Career investigation shall include the essential elements listed in §75.50(f)(1)-(4) of this title (relating to Vocational Education).

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 May 17, 1988.

TRD-8805228 W. N. Kirby
Commissioner of Education

Proposed date of adoption: July 9, 1988

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

Subchapter D. Essential Elements-Grades Nine-12

• 19 TAC §75.70

The Texas Education Agency proposes an amendment to §75.70, concerning business education in grades nine through twelve. The amendment adds the course microcomputer applications (1/2 unit) as a course in business education. The essential elements for the course are set out in §75.87 (relating to Office Education). The amendment clarifies that the course may be taught as a vocational cluster

course by a vocational teacher or as a general education business course by a business teacher.

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 Dr. 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 flexibility for local school districts in delivery of the essential elements for microcomputer applications. 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 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 amendment is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the well-balanced curriculum. §75.70. *Business Education*.

(a)-(q) (No change.)

(r) Microcomputer applications (1/2-one unit). Microcomputer applications shall include the essential elements listed in §75.87(j) of this title (relating to Office Education).

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

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Commissioner of Education

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Chapter 85. Student Services

Subchapter H. Transportation Service

The Texas Education Agency proposes amendments to §§85.171-85.173, 85.181-85.183, 85.185, 85.214, 85.216-85.219, and 85.232-85.233; new §85.186 and §85.187; and the repeal of §§85.186, 85.202-85.203, and 85.231. All sections concern public school transportation.

These sections were not amended after the passage of House Bill 72, 68th Legislature, although several provisions within the sections were superseded by the revised statute.

Operation of the transportation program after House Bill 72 has been based on statutory provisions. These amendments are proposed to make the rules consistent with current statutes. The amendments also consolidate into Chapter 85 material previously included in Chapter 105, Subchapter G, which is being repealed.

The amendment to §85.171 provides that transportation of bilingual students may be approved for funding as regular transportation if the routes meet eligibility criteria. A separate provision for bilingual transportation is deleted from §85.173, to reflect current statutory provisions.

Section 85.232, concerning the school bus driver record evaluation, is amended to restructure the penalty point assessment provisions for accident and equipment violations, due to changes in law enforcement policies in assessing accident violation citations, and to establish a local appeals process to determine negligence in an accident.

Section 85.233, concerning the medical examination report for school bus drivers, is amended to correlate physical examination criteria with current guidelines developed by the Medical Advisory Board of the Texas Department of Health.

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, director for policy development, 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 consistency of rules with current law. 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 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*.

Student Eligibility for Transportation Services

• 19 TAC §§85.171-85.173

The amendments are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program. §85.17. *Regular Student Eligibility*.

(a) (No change.)

(b) General requirements.

(1) The student must reside two or more miles from the assigned campus of regular attendance as measured by the

shortest publicly traveled route from the student's home to his or her school.]

(1)[(2)] A[The] student must reside in the district and attendance area (as designated by the district board of trustees); or be an approved transfer student

(2)[(3)] A transfer student is eligible when the school he or she would have attended in the home district and the school he or she attends in the receiving district are both located two or more miles from his or her residence.

(3)[(4)] A public school district operating a prekindergarten and/or a kindergarten program on a one-half day basis may make application for bus service to transport these students to or from school at midday. All such eligible bus students are expected to attend the same half-day session. If the school district is unable to accommodate all eligible prekindergarten and/or kindergarten bus students in the same half-day, special approval must be secured from the commissioner of education.

(4) Transportation of bilingual students may be approved for funding as regular transportation if the route(s) meet the same eligibility criteria as specified in this section.

(5) (No change.)

(6) Students considered to be at risk under §75.195 of this title (relating to Alternatives to Social Promotion) may be approved for regular or vocational transportation if the criteria for regular or vocational eligibility are met. Handicapped transportation may be utilized if it is economically advantageous to the district and the service ensures first priority to the individual needs of the handicapped students.

(c) Special requirements.

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

(3) In establishing eligibility for hazardous area transportation, each district board of trustees shall provide to the commissioner of education: [Students residing in hazardous areas shall be eligible if a hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.]

(A) a definition of the hazardous condition(s) applicable to that district: [For students residing in hazardous areas to become eligible, each board of trustees shall provide to the commissioner:

[(i) the definition of hazardous conditions applicable to that district; and]

(B)[(ii)] identity of the specific hazardous area(s) [area] for which the allocation is requested; and

(C)[(B)] Identity of [The legally designated authority shall identify] the bus route(s) [routes] serving the specific hazardous area(s) [areas].

[(C) The maximum allowable mileage shall be computed based on the district's maximum allowable allocation for hazardous mileage divided by the district's group cost. Consideration shall not be given to the approval of mileage in excess of the maximum allowable.]

§85.172. Handicapped Student Eligibility.

[(a) A handicapped student shall be eligible for special transportation when the student is eligible for special education and is unable to attend school without special transportation.

[(b) Consideration for student eligibility is based upon the definitions for handicapped children as contained in state and federal law and regulations and §89.211 of this title (relating to Handicapped Students).]

[(c) Students may live within the school district, within one of the school districts in a cooperative program, or be transferred to a district where special education services are available. The child who is eligible for and placed in special education classes does not automatically qualify for special transportation reimbursement. Specific reasons why a child needs special transportation and the type of special transportation required and furnished shall be documented annually in the student's eligibility file.

[(d) Handicapped children eligible for special education and who can utilize regular transportation shall be transported if eligible on regular routes (§85.171 of this title (relating to Regular Student Eligibility)).]

(a)[(e)] In establishing eligibility for handicapped transportation, the [committee determination of transportation eligibility. The] local special education admission, review and dismissal (ARD) committee shall annually be responsible for determining:

(1) [determining] the need for special transportation; and

(2) [determining] the type of special transportation needed.

(b)[(f)] The documented record of this determination shall then become a part of the handicapped student's eligibility file. The specific reason for special transportation shall be written in the dated record of the committee's action [above the committee members' signatures].

§85.173. Vocational [and Bilingual or Other Special Language] Program Student

Eligibility. Regulations for determining eligibility for transportation of students in vocational [and bilingual] education [or other special language programs] are as follows:

(1) the student must be assigned as a vocational student to another campus within a district, to another secondary public school or an area vocational school, or to an approved post secondary institution under a contract for instruction approved by the Central [Texas] Education Agency; and [or]

[(2) the student must be assigned under the provisions of Chapter 77, Subchapter R of this title (relating to Bilingual Education and Other Special Language Programs) as a bilingual education or other special language program student to another campus within a district, to another district or area vocational school or to an approved post secondary institution under a contract for instruction approved by the Texas Education Agency; and]

(2)[(3)] no student shall be eligible for transportation reimbursement for more than 175 days of any school year. [If transportation for bilingual education summer school programs is provided it shall be at local district expense or from funds allotted under §77.362 of this title (relating to Allotments for Operational Expenses.)]

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

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W. N. Kirby
Commissioner of Education

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Types of Transportation

• 19 TAC §§85.181-85.183, 85.185-85.187

The amendments and new rules are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program.

§85.181. *Provision of Services by Type.* The types of transportation which shall be provided for eligible students are regular, prekindergarten/kindergarten, private, contracted, [and] commercial, handicapped, and vocational, [(§§85.201-85.203 of this title (relating to Transportation Special Provisions))].

§85.182. *Regular Transportation.*

(a) General guidelines. The school

transportation program shall provide the most economical system for serving all of the eligible students residing in the school district. All proposed additions to or changes in the transportation program shall be [reported to the Texas Education Agency as soon as] approved by the lawful designated authority.

(b) Requirements for establishing routes. School bus routes for the following school year shall be established by June 1 as required by Texas Education Code, §16.202(b)(2), and route descriptions furnished annually to the Texas Education Agency for each route operated. If notification of revised routes is not received by June 1, the program for the following school year will be approved in keeping with the route mileages rendered on the annual student transportation report for the current year.]

(b)(c) Basis for approval of routes.

(1) All requests [Request] for the approval of additional bus routes shall be on forms furnished by the Central [Texas] Education Agency. There must be a complete route description submitted for each new route requested and a statement explaining why the route is necessary.

(2) Each request for an additional school bus route or route revision shall be subject to a survey by a Central [Texas] Education Agency staff member. The survey will include an examination of the district's total transportation program and need of the additional route, utilizing the criteria listed and other appropriate data that may be furnished by local school officials such as information on local traffic conditions, the times of day when traffic is the heaviest, the specific driving time for each bus operated, and the number, if any, of ineligible students transported.

(3) (No change.)

(4) Duplicate routes or services or both must be approved by the lawful designated authority having jurisdiction and by the [state] commissioner of education. Factors to be considered in approving duplication of services or routes or both are economy and geographic barriers.

(5) Applications for additional [new] bus routes for schools operating transportation systems must be approved by the lawful designated authority and received by the Central [Texas] Education Agency on or before December 22 of the current school year. Revisions to previously approved active routes may be submitted on the final application (annual Pupil Transportation Report).

(6) (No change.)

(7) For funding purposes, midday prekindergarten/kindergarten routes shall be considered as regular transportation and reported to the Cen-

tral Education Agency on separate application forms. Only the actual round trip mileage, either to or from school, shall be reported.

(c)(d) Regulations for lengths of routes.

(1) A bus route is administratively defined as being the service provided by one bus to transport eligible bus students to and/or from their assigned campus(es) and shall consist of one or more trips, each trip ending when the bus has completely unloaded all of its riders.

(2) For funding purposes, all [school] bus routes shall [should] be described to depart [measured] from the last school campus served [within the district]. Except for midday prekindergarten/kindergarten transportation, the length of an individual bus route will be twice the distance from the last campus [school] served [, except midday prekindergarten/kindergarten,] over the shortest [nearest] practical route required to serve [the] eligible riders [students and return to school]. The distance will not be doubled for midday prekindergarten/kindergarten routes.

(3) Retracing side roads where children live a reasonable distance from the main route shall [should] be reduced to a minimum. Such retracing cannot be regarded as necessary where the distance is not more than 1/2 mile and shall not be included in calculating the length of the bus route for reporting purposes. [Where retracing seems absolutely unavoidable, it must be fully justified and must be approved by the state commissioner of education.]

(4) A student will not be expected to spend in excess of one hour each morning and one hour each afternoon on a school bus unless [the area of the school district and] the location of the student's residence or other comparable conditions make a longer period of time on the bus necessary [mandatory].

§85.183. *Private Transportation.* Regulations for the approval of a private transportation service [service provided] for eligible regular and handicapped students transported by privately owned passenger vehicles of a county or individual school district shall include the following:

(1) Applications must be approved on an annual basis by the local lawful authority and the Central [Texas] Education Agency which] shall determine as a condition for approval that such service is cost effective.

(2) Initial application forms [Applications] must be submitted to the Central Education Agency by September 20 [prior to or on the date the service becomes effective]. Special requests may be made for programs initiated during

the school year.

(3) (No change.)

(4) Forms for the final application for funds for private transportation shall be mailed annually to the district on or before May 1.]

(4)(5) Final application forms for funds [for private transportation] shall be due annually on or before May 15 [June 1]. The calculation of each district's cost allotment for private transportation services shall be as provided by statute. §85.185. *Commercial Transportation.* In addition to commercial transportation services which may be provided under §85.184 of this title (relating to Contract with Transportation Company or System [Contracted Transportation]) commercial transportation services may be provided by regular commercial bus lines for isolated groups of eligible students in accordance with the Texas Education Code, §16.156(e) [§16.206(f)]. Regulations for the approval of services by commercial bus lines for eligible students are as follows:

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

§85.186. *Transportation for Handicapped Students.*

(a) Services provided. Services may be provided to eligible students by the following methods: district operated buses, private transportation provided by parents or their agents, or by contracted transportation, in accordance with law and the provisions of §85.184 of this title (relating to Contract with Transportation Company or System). The transportation program for handicapped children must be operated in accordance with the requirements in this section.

(b) Transportation under the Foundation School Program.

(1) Application.

(A) All bus routes shall be approved by the lawful designated authority and the commissioner of education. All requests for the approval of additional district operated routes shall be on forms furnished by the Central Education Agency and received by the transportation section of the Central Education Agency on or before December 22 of the current school year. There must be a complete route description submitted for each new route requested and a statement explaining why the route is necessary.

(B) All districts participating in a transportation program shall file with the Central Education Agency a final application which shall be due annually on or before May 15. A district shall certify that students being served meet the statutory requirements for this service.

(C) Districts having eligible

handicapped students whose individual education plan (IEP) requires the continuation of transportation services beyond the regular school year shall submit an amendment to their final application for additional funds prior to July 1.

(D) The calculation of each district's cost allotment for handicapped transportation services shall be as provided by statute.

(2) Routes.

(A) Each bus route operated by a school district shall be planned to provide the transportation service required by each eligible student. These services shall be transportation from the child's home to school and return to home. When a child is picked up or delivered to a different address, a request must be made in writing and be on file.

(B) The system of routes, both private and district operated, shall be substantiated by a narrative description of each route including the number of miles covered by each route and the number of handicapped and regional day school deaf students on each route.

(C) For reporting purposes, all bus routes shall be described to depart from the last school campus served. The length of an individual bus route will be twice the distance from the last campus served over the shortest practical route required to serve eligible riders to school.

(3) General guidelines and requirements.

(A) It is interpreted that the legislative intent for special transportation is for the school district to own and operate suitable school buses for eligible handicapped children.

(B) Buses shall transport only eligible handicapped students as defined in §85.172 of this title (relating to Handicapped Student Eligibility for Transportation Services).

(C) Where private transportation is used as a related service in order for the child to benefit from the special education program, it must be provided without cost to parents. The reimbursement allowance for private transportation should be addressed as part of the student's IEP.

(D) If private transportation is provided by a designated agent of the parent, a signed statement of parental authorization must be on file in the student's eligibility folder for each school year the service is provided.

(E) Special modification of equipment as well as the type of equipment chosen should be a major consideration in providing for the safety of the children being transported.

(F) School buses used to transport eligible handicapped students must meet state and federal specifications and must be purchased in keeping with the Texas Education Code, Chapter 21, Subchapter F. Each route load will depend on the number and type of handicapped students being transported. Measures should be taken to prevent overcrowding of special buses.

(G) In emergency situations, a special bus should be available for eligible handicapped students.

(H) Special buses may be used to transport eligible handicapped children on field trip travel. In using these vehicles for field trip activities, the district's handicapped children transportation fund must be reimbursed at a rate based on the actual cost of operation. Where handicapped students are charged a fee for extra-curricular or field trip travel, they may not be charged a fee which is different from that charged to regular students for the same activity.

(I) The school district in which a regional day school is located shall bear the cost of transporting students in the program who live within the district and is entitled to have those students counted in its allotment of transportation funds from the state. The regional day school program for the deaf shall bear the costs of transporting children who live outside the district to the regional day school.

(c) Other transportation for handicapped students.

(1) Special transportation specified in a student's IEP which is not provided under the Foundation School Program in accordance with subsection (b) of this section shall be provided using federal or local funds. State basic special education support funds allocated under the Texas Education Code, §21.506(b), may also be used for transportation to and from residential facilities, if necessary.

(2) For students placed in a residential setting based upon local school district ARD committee recommendations including those students placed in the Texas School for the Blind and the Texas School for the Deaf, the school district shall be responsible for transportation at the beginning and end of the term and for regularly scheduled holidays when students are expected to leave the residential campus. School districts are not responsible for

transportation costs for students placed in residential settings by their parents. Transportation costs shall not exceed state approved per diem and mileage rates. Transportation shall be arranged using the most cost efficient means. Where it is necessary for the safety of the child as determined by the ARD committee for an adult designated by the ARD committee to accompany the student, roundtrip transportation for that adult shall also be provided. The school district and the residential facility shall coordinate to ensure that students are transported safely, including periods of departure and arrival.

§85.187. Vocational Services. Eligible vocational students may be transported by bus under the following conditions.

(1) Initial applications for funds shall be made annually to the Central Education Agency by September 20. Special requests should be made for state-approved programs initiated during the school year.

(2) Services provided to vocational students shall be on a campus-to-campus basis for either the full school day or any part of the school day. For reporting purposes, the route description shall show the bus to depart from the home campus, travel to the vocational campuses, and then return to the home campus.

(3) A final application form for funds shall be due annually on or before May 15.

(4) The commissioner of education shall reimburse school districts for the transportation of vocational education students based on the number of actual miles traveled times the district's actual cost-per-mile as shown on the previous year's transportation operation cost report.

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

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TRD-8805213 W. N. Kirby
Commissioner of Education

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

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• 19 TAC §85.186

(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 Education Agency or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transporta-

tion a part of the Foundation School Program. §85.186. *Transportation to Nearest College or University.*

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

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Commissioner of Education

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

Transportation Special Provisions

• 19 TAC §85.202, §85.203

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

The repeals are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program.

§85.202. *Transportation for Handicapped Students.*

§85.203. *Vocational and Bilingual 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.

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TRD-8805216 W. N. Kirby
Commissioner of Education

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Transportation Administration

• 19 TAC §§85.214, 85.216-85.219

The amendments are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program.

§85.214. *Operation of School Buses.*

(a) (No change.)

(b) The board of trustees of any school district or county board providing transportation of students by school bus [to and from school] shall employ school bus drivers in compliance with the provisions of this section.

(c) All drivers employed to transport school children shall:

(1) (No change.)

(2) be properly licensed to operate a school bus [be licensed as a chauffeur];

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

(d) The school district board shall require all its drivers to bring their school buses [vehicles] to a complete [dead] stop before crossing at grade any railroad [railway] tracks.

(e) School bus driver training shall be provided as follows.

(1) The curriculum for school bus driver training will be developed by the Central Education Agency and approved by the Department of Public Safety.

(2)-(4) (No change.)

§85.216. *Use of Buses.*

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

(c) The district or county transportation fund, regular or handicapped, shall be reimbursed for all extracurricular and field trip travel. The rate of reimbursement shall be based upon the actual cost of operation [previous year's operation expenditure as determined by the annual transportation operating cost report]. A trip ticket, with beginning and ending odometer readings, shall be used in connection with each bus for each trip.

(d)-(e) (No change.)

§85.217. *Method for Determining Student Counts and Route Mileages for Density Grouping Purposes.*

(a) Commencing with the first Wednesday in October and continuing the first Wednesday of each month through the first Wednesday in February, the district shall count and record the number of students who ride the bus and reside at least two miles from the school they attend.

(1) (No change.)

(2) A student shall [should] be counted on only one bus route. [if he or she rides two or more buses in reaching school.]

(3) (No change.)

(4) The school district shall maintain a list of actual bus riders on the first Wednesday of October through February for each route operated. The list shall include the name of the student being served, the school he or she attends, his or her grade, the number of the bus route providing the service, and the trip number. The list must be available for examination by members of the transportation section or members of the field audit division, or both, of the Central [Texas] Education Agency.

(b) The district shall also determine the total daily miles required for each route operated to transport the two mile eligible bus students to and from school on the first Wednesday in February. The mileage reported must be in keeping with the mile-

age on the route description, as approved by the legally designated authority, for each route operated.

[(1) The noonday kindergarten transportation program should be considered as regular transportation and reported as such on separate forms. In reporting the mileage traveled, the actual route description mileage, either to or from school, shall be reported.]

[(2) The mileage reported must be in keeping with the mileage on the route description, as approved by the legally designated authority, for each route operated.]

(c) Bus riders residing in hazardous areas, ineligible bus riders, and any additional mileage required to serve them shall not be included in determining a district's linear density.

(d) Each district's linear density grouping shall be determined on the basis of data obtained from the first year of each biennium to become effective for the succeeding biennium. The format and content of the report shall be specified by the commissioner of education.

§85.218. *Method for Determining Costs on a Per Mile Basis.*

(a) (No change.)

(b) The odometer or hubometer reading of all buses, regular and handicapped students, shall be recorded on September 1.

§85.219. *Method of Reporting Student Counts and Route Mileages for Funding Purposes.*

(a) Prior to March 15, the district shall report the average number of two mile eligible bus riders, as well as the average number of students being transported who reside in hazardous areas as defined by the Texas Education Code, §16.156 [§16.206], for each state approved route operated. The students transported shall be determined for each route operated by averaging the students actually transported on the first Wednesday of any four of the five months for which counts were recorded.

(b) Prior to March 15, the district shall report the number of miles required to transport two mile eligible bus students, as well as those students rendered eligible by reason of residence in hazardous areas, for each route operated.

(1) (No change.)

(2) Route descriptions for each route operated, as approved by the legally designated authority, must accompany the annual pupil [student] transportation report.

(3) The district shall submit separate route descriptions [,] for those routes serving both hazardous and two mile eligible bus students to the transportation section of the Central Texas Education Agency for review and approval.

This agency hereby certifies that the proposal

has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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TRD-8805218 W. N. Kirby
Commissioner of Education

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Subchapter I. Adoptions by Reference

• 19 TAC §85.231

(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 Education Agency or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program. §85.231. *Program Handbook and Instructional Guide for School Bus Driver's Training in Texas.*

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

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Subchapter I. Adoptions by Reference

• 19 TAC §85.232, §85.233

The amendments are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program.

§85.232. *Revised School Bus Driver's Driving Record Evaluation.* The rules for evaluating a school bus driver's driving record are described in the official Texas Education Agency standards entitled "Revised School Bus Driver's Driving Record Evaluation" as amended, July 1988 [June 1977], which is adopted by reference as the Agency's official rule. A copy is available for examination at all county and independent school district offices operating a public school transportation program and during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays and Sundays, at the Texas Education Agency [(headquarters) Building], 1701 North Congress

Avenue [201 East Eleventh Street], Austin. §85.233. *Medical Examination Report for School Bus Drivers [and Substitute School Bus Drivers].*

(a) The primary concern of [for] any school bus driver is the safety and welfare of the children that ride his or her bus. In addition to proper performance of the driving task, a school bus driver must be able to control the bus passengers effectively and deal with any emergency or other situation that may arise.

(b) The requirements for the medical examination report for school bus drivers are found on the form "Medical Examination Report for School Bus Drivers [and Substitute School Bus Drivers]" as amended July 1988 [May 1983] which is adopted by reference as a rule of the Texas Education Agency. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays and Sundays, at the Texas Education Agency [Building], 1701 North Congress Avenue [201 East Eleventh Street], Austin.

(c) (No change.)

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

Issued in Austin, Texas, on May 20, 1988.

TRD-8805214 W. N. Kirby
Commissioner of Education

Proposed date of adoption: July 9, 1988

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

Chapter 105. Foundation School Program

Subchapter G. Transportation

• 19 TAC §§105.131-105.135, 105.137-105.139

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

The Texas Education Agency proposes the repeal of §§105.131-105.135 and 105.37-105.39, concerning public school transportation. These sections comprised Subchapter G of Chapter 105. They concerned transportation funding provisions under the Foundation School Program. Funding provisions have been incorporated into proposed amendments to sections concerning the transportation program in Chapter 85. To avoid duplication of material, these actions are proposed for repeal.

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

administering the repeals.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also have determined that for each year of the first five years the proposed repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be incorporation of all transportation rules in one chapter of the Texas Administrative Code. There is no anticipated economic cost to individuals who are required to comply with the repeals 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 repeals are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and §16.156, which makes transportation a part of the Foundation School Program.

§105.131. *Use of Transportation Funds.*

§105.132. *Transportation to Nearest College or University.*

§105.133. *Regular Routes.*

§105.134. *Transportation of Kindergarten Students at MIDDAY.*

§105.135. *Private and Commercial Transportation.*

§105.137. *Transportation for Handicapped Students.*

§105.138. *Transportation for Vocational Education Student.*

§105.139. *Transportation for Students Enrolled in Required Bilingual Education and Other Special Language Programs.*

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 May 20, 1988.

TRD-8805228 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: July 9, 1988

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

General Provisions

• 22 TAC §501.2

The Texas State Board of Public Accountancy

tancy proposes an amendment to §501. 2, concerning the definitions of holding out to the public as a certificate or registration holder [licensee]; and, practice of (or practicing) public accountancy. The amendment contains a clearer definition of the terms.

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 the amendment will more clearly define the terms, holding out to the public as a certificate or registration holder; and practice of (or practicing) public accountancy, thus eliminating confusion within the profession. 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, Texas 78752-3892.

The amendment 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 relating to definitions used in the Rules of Professional Conduct.

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

Holding out to the public as a certificate or registration holder [licensee]—As that term is used in the definition of practice (or practicing) public accountancy, any representation of the fact that a person holds a certificate or registration made in connection with an offer to perform or performance of [professional] services for the public. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate or registration in connection with the [professional] services offered to be performed. For purposes of this definition, a representation shall be deemed to include any oral or written communications conveying the fact that the person holds a certificate or registration, including, without limitation, the use of titles or legends displayed in letterheads, business cards, office doors, advertisements, and listing. Holding out to the public does not include:

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

Practice of (or practicing) public accountancy—The performance or offering to perform by a person holding himself out to the public as a certificate or registration holder, or the performance by a certificate or registration holder, for a client or potential client, of one or more kinds of services involving these of accounting or auditing skills, including the

issuance of reports on financial statements, or of one or more kinds of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. The phrase "services involving the use of accounting or auditing skills," as used in this definition, includes the provisions of advice or recommendations in connection with the sale of products, when the advice or recommendations require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

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 May 23, 1988.

TRD-8805257

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

Earliest possible date of adoption: April 1, 1988

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

Chapter 511. Certification as CPA

Educational Requirements

• 22 TAC §511.57

The Texas State Board of Public Accountancy proposes an amendment to §511. 57, concerning the definition of accounting courses, including accounting core courses.

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 the amendment provides for inclusion of governmental accounting in the accounting core courses. 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, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education definition of accounting courses.

§511.57. Definition of Accounting Courses. The board will accept as accounting courses all passing semester hours (without repeat) shown on official transcripts in the following subject areas:

(1) accounting core courses:

(A)-(E) (No change.)

(F) accounting theory; [and]

(G) (No change.)

(H) accounting for governmental and/or other non-profit organizations; and

(I) accounting systems;

(2) other accounting courses:

(A) (No change.)

(B) [accounting systems,] accounting consultation;

(C) accounting for specialized businesses or industries (such as [governmental organizations,] fiduciaries, banks, etc.);

(D)-(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 May 19, 1988.

TRD-8805254

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

Earliest possible date of adoption: July 1, 1988

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

TITLE 25. HEALTH SERVICES

Part VI. Statewide Health Coordinating Council

Chapter 571. Health Planning and Resource Development

State Health Plan

• 25 TAC §571.1

The Statewide Health Coordinating Council proposes an amendment to §571.1, concerning the state health plan for Texas. The amendment to §571.1 will show the date of the amendment and clarify the language of the section. In addition, the amendment will update and modify the Texas State Health Plan which is adopted by reference in §571.1. The amendments to the Texas State Health Plan cover statewide health problems, develop recommendations designed to resolve these problems, and propose needed implementation strategies. The health problems specifically addressed include AIDS, health care needs of the homeless, maternal and child health, medical liability insurance, school health, environmental health, mental health and mental retardation, health profes-

sions, trauma-EMS, disability and rehabilitation, long-term care and alternatives, short-term care, and alcohol and drug abuse. The amendment will also involve changes, modifications, and placement of titles of chapters in the state health plan.

Carol S. Daniels, Chief, Bureau of State Health Data and Policy Analysis, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications to state or local government or small businesses as a result of enforcing or administering the section.

Ms. Daniels also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be increased awareness of the health problems in the state and knowledge about prevention activities. The public will also benefit from proposed recommendations to improve the availability and accessibility of health care services in the state. There is no anticipated economic cost to individuals who are required to comply with the section as proposed. Since the Texas State Health Plan is a proposed solution to statewide health concerns, no direct costs to individuals will result.

Comments on the proposal may be submitted to Carol S. Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Comments will be accepted for 60 days after publication of the proposed amendment in the *Texas Register*. In addition, comments will be received at public hearings scheduled throughout the state. The time, date, and location of these hearings and the availability of copies of the plan for review will be described in a notice titled "Public Hearings" which will be published in the "In Addition" section of the Texas Register in the near future. Contact Ms. Daniel's office for further information, Statewide Health Coordinating Council, Health Planning and Resource Development.

The amendment is proposed under the Texas Health Planning and Resources Development Act of 1974, Texas Civil Statutes, Article 4418h, §4.04, which provide the Statewide Health Coordinating Council with the authority to adopt a state health plan.

§571.1. State Health Plan for Texas. The Statewide Health Coordinating Council adopts by reference the document entitled, "The Texas State Health Plan, 1989-1990 [1987-88]." This document reflects a five-year planning period, [and] has been published by the Statewide Health Coordinating Council, and is available from the Bureau of State Health Data and Policy Analysis [Planning and Resource Development], Texas Department of Health, 1100 West 49th Street, Austin, Texas.

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 May 24, 1988.

TRD-8805285

Marion R. Zetzman
Chairman
Statewide Health
Coordinating Council

Earliest possible date of adoption: July 30, 1988

For further information, please call: (512) 458-7261

Procedures and By-Laws

• 25 TAC §§571.41-571.51

The Statewide Health Coordinating Council proposes new §§571.41-571.51, concerning procedures and by-laws. The new sections will cover the name and enabling legislation, purpose and functions, organization and structure, officers, meetings, committees, ad hoc advisory groups, conflicts of interest, general considerations, amendments to the sections, and dissolution of the council.

Carol S. Daniels, chief, Bureau of State Health Data and Policy Analysis, has determined that for the first five-year period the sections will be in effect, there will be no fiscal implications to state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Daniels also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to inform the general public of the procedures and by-laws governing the council. There is no anticipated economic cost to individuals who are required to comply with the new sections as proposed.

Comments may be submitted to Carol S. Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of the proposed new sections in the *Texas Register*. Statewide Health Coordinating Council Health Planning and Resource Development.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §4.04, which provides the Statewide Health Coordinating Council with the authority to adopt rules covering its procedures and by-laws.
§571.41. Introduction.

(a) Name. The entity is the Texas Statewide Health Coordinating Council, hereafter referred to as the council. It is an advisory and decision-making council appointed by the governor of the state of Texas in compliance with Texas Civil Statutes, Article 4418h.

(b) Address. The administrative offices for the council shall be located at 1100 West 49th Street, Austin, Texas 78756-3199.

(c) Enabling legislation. The council is established by Texas Civil Statutes, Article 4418h, §4.04. The Texas Department of Health, Bureau of State Health Data and Policy Analysis (or its successor), hereafter referred to as the bureau, is desig-

nated to assist the council in the discharge of its functions.

(d) Composition. The council shall be composed of those persons appointed by the governor.

(e) Fiscal year. For all fiscal and administrative purposes, the reporting year of the council shall be identical to that of the Texas Department of Health, Bureau of State Health Data and Policy Analysis (or its successor).

§571.42. Purpose and Functions.

(a) Purpose. The purpose of the council is to conduct the planning, resource development, and implementation activities of Texas Civil Statutes, Article 4418h.

(b) Functions. The council shall perform the following functions as outlined in Texas Civil Statutes, Article 4418h.

(1) The council shall prepare (in consultation with the Health and Human Services Coordinating Council), review at least biennially, and revise as necessary a state health plan based on the preliminary state health plan developed by the bureau staff.

(2) The council shall review and approve the biennial implementation plan prepared by the bureau and the specific plans and programs for achieving the objectives established in the implementation plan.

(3) The council shall direct the process of insuring implementation of respective portions of the state health plan by all appropriate departments, agencies, boards, and councils as mandated by state statute.

(4) The council shall develop and direct the actions necessary to cause the portions of the state health plan requiring statutory action to be presented to the Legislature for consideration.

(5) The council shall make rules as necessary to perform such duties and functions that are in keeping with the responsibilities of the council as they are detailed in these sections, Article 4418h, or other federal and state authority.

§571.43. Organization and Structure.

(a) General. The council shall consist of the members appointed by the governor, its officers, and committees. The council shall also include a nonvoting, ex officio member appointed by the Chief Medical Director of the Veteran's Administration.

(b) Appointments. All members to the council, except the ex officio member, are appointed by the governor.

(c) Terms of office. The terms of council members shall be staggered so that the terms of not more than one-half of the members shall expire in a single calendar year. The length of terms for members may not exceed two years. An exception shall be

when a successor has not been appointed for a given member at the end of a two-year term, in which case the member may continue to serve until a successor has been appointed and qualified.

(d) Resignation and ineligibility. Any council member may resign at any time by giving written notice to the chair of the council and the governor. A member becomes ineligible for membership on the council when a member's principal place of residence is no longer in the state.

(e) Vacancies. A vacancy may exist upon the death, resignation, or ineligibility of any member and shall be filled in the same manner as the original appointment process. A person appointed to fill a vacancy on the council holds the position for the duration of the unexpired term of the predecessor member.

(f) Attendance. A record of the attendance at each meeting shall be made. Any member who is absent without a chair approved reason from two consecutive regular meetings shall, after a formal vote of the council, be notified by letter concerning the absences. A copy of the letter shall be forwarded to the governor.

(g) Dues. No dues or membership fees may be charged to any member of the council.

(h) Compensation. Members of the council shall serve without compensation, but will be reimbursed for travel expenses incurred in accordance with State of Texas and Texas Department of Health travel policies.

§571.44. Officers.

(a) Selections and appointments. The governor may select, by and with the advice and consent of the state senate, the chair of the council from among the members of the council. If the governor does not select the chair, the council shall elect the chair from among its members. In addition, the council shall nominate and elect from among its members at its first regular meeting on or following September 1 of each year a first vice-chair, a second vice-chair, and a secretary by a majority vote of members present and voting. The chair shall appoint a parliamentarian from among the members. The chair shall appoint a Nominating Committee from the membership prior to the next scheduled meeting at which the election shall take place. The Nominating Committee shall consist of five members. The Nominating Committee shall submit its nominations to the chair in sufficient time for the chair to submit the list of nominees in writing to each member of the council. The Nominating Committee shall automatically dissolve upon completion of its purpose each year. The chair shall also accept nominations from the floor. Officers so elected shall serve a one-year term or until their successor is elected and shall assume office immediately upon election, excluding partial terms. Vacancies in of-

fices shall be filled by a majority vote of members present and voting at the next regularly scheduled meeting of the council. Officers so elected shall serve the unexpired term of their predecessor.

(b) Duties of officers. The chair shall preside at all meetings, and appoint such standing and ad hoc committees as are authorized by the council. The first vice-chair and the second vice-chair shall assume, in that order, the authority and duties of the chair when the chair is absent and shall perform such other duties as may be assigned by the chair or the council. The parliamentarian shall advise the chair and the council on parliamentary procedures upon the request of the chair or any member of the council. The secretary shall authenticate the minutes of all council meetings and perform such other duties as may be assigned by the chair or the council.

§571.45. Meetings.

(a) Regular meetings. The council shall meet not less than two times per year at a place designated by the chair. Written notice of the time, place, and purpose of regular meetings will be transmitted to each member at the last known address at least two weeks prior to such meetings.

(b) Special meetings. Special meetings of the council are held when called by the chair and one other officer, or twelve members of the council. Notice of special meetings of the council must be made in advance, specifying the time, place, and purpose of such meetings in compliance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(c) Open meetings, open records, and administrative procedures. The council shall comply with the requirements of the Texas Open Meetings Act in the conduct of its meetings; the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, in the release of council records to the public; and the Administrative Procedures and Texas Register Act, Texas Civil Statutes, Article 6252-13a, in the conduct of its functions.

(d) Quorum. A majority of the council constitutes a quorum for the transaction of business at any meeting. A majority of the council is defined as more than one-half of the voting members of the council.

(e) Voting. The council may act only by majority vote of its members present and voting, with each member entitled to one vote, unless a conflict of interest exists as described in §571.48 of this title (relating to Conflict of Interest). No proxy vote shall be allowed. For election of officers, a paper ballot may be required. The Veteran's Administration ex officio member is nonvoting.

(f) Presiding officer. In the absence of the chair, first vice-chair and second vice-chair, a presiding officer shall be cho-

sen by a majority of the council members present.

§571.46. Committees.

(a) Designation. The committees of the council shall be standing and ad hoc. Committees shall be appointed from the membership by the chair with such powers and responsibilities as shall be delegated to them by the chair and as authorized by the council. A majority of each committee shall constitute a quorum for the transaction of business. Each member shall be entitled to one vote, except the Veterans Administration ex officio member. No proxy vote shall be allowed. A majority vote of members present at a meeting at which a quorum is present shall be required for approval of any deliberation by said committee.

(b) State Health Plan Development Committee (SHPDC). The SHPDC is a committee of not more than 15 members who shall serve for a two-year term. The SHPDC shall prepare, review at least every two years, and revise as necessary a state health plan based on the preliminary state health plan developed by the bureau staff, and the SHPDC shall recommend to the council this plan to be adopted as the proposed state health plan. Recommendations to the council may include a description of statewide health needs, as recommended by state and local government agencies and private organizations and as determined by the State Health Planning and Development Agency, and review and comment on the biennial implementation plan prepared by the bureau staff.

(c) Legislative committee. The legislative committee is a committee of at least nine members who shall serve for a two-year term. The Legislative Committee shall make recommendations to the council regarding the following:

(1) state and federal legislation as it relates to health planning and health program implementation activities;

(2) the budgets of other state agencies and programs affecting state health plan implementation strategies;

(3) the adequacy and application of health and health-related appropriation requests; and

(4) the statewide implementation functions as described in the state health plan and the biennial implementation plan, including proposals for legislative action or rules required by the state health plan.

(d) Ad Hoc Committees. The council chair may appoint ad hoc committees for specific tasks.

§571.47. Ad Hoc Advisory Groups. The chair may appoint, with the authorization of the council, ad hoc advisory groups for the performance of such activities of a limited nature as may be appropriate.

§571.48. Conflict of Interest.

(a) Voting abstention. No council member may vote on any matter which would involve a conflict of interest. No council member may vote on any matter before the council respecting any individual or entity with which such member has, or has had within the twelve months preceding the vote, any substantial ownership, employment, medical staff, or relationship of a fiduciary, contractual, creditor, or consultative nature.

(b) Disclosure of conflict of interest. Whenever a council member has, has had, or believes he/she may have had a conflict of interest with an individual or entity involved in any matter before the council, the member shall make a written disclosure of such relationship in any meeting on which such action is to be taken. The member shall make the disclosure before any action is taken by the council concerning the matter. Any other council member may raise the question of conflict of interest or possible conflict of interest with respect to any council member present. The question raised must be decided in the same manner as if the member had announced the conflict or possible conflict of interest.
§571.49. General Considerations.

(a) Parliamentary procedure. Parliamentary procedures for all council, committee, and advisory group meetings will be conducted in accordance with the latest edition of Robert's Rules of Order.

(b) Minutes. Minutes of all council meetings will be prepared and transmitted to council members for their review prior to subsequent meetings.

(c) Contraventions and invalidities. Nothing in these sections shall be construed to contravene state law or the rules, procedures, or policies of the Texas Department of Health. If any article, section, paragraph, or sentence of these sections is found to be invalid for any reason, such invalidity shall not affect other provisions of the sections, which will be given effect without the invalid provision.

§571.50. Amendments to These Sections. Proposed amendments to these sections may be submitted by a council member. These sections may be amended by a two-thirds vote of the members. Notice of the changes must be made available in writing not less than 30 days in advance of a meeting to each member and must contain a full statement of the section which is affected and the proposed amendment or amendments.

§571.51. Dissolution of the Council. The council will dissolve itself when its authorizing legislation ceases.

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 May 24, 1988.

TRD-8805284

Marion R. Zetzman
Chairman
Statewide Health
Coordinating Council

Earliest possible date of adoption: July 30, 1988.

For further information, please call: (512) 458-7261

TITLE 31: NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

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

• 31 TAC §305.62

The Texas Water Commission (TWC) proposes amendments to §305.62 and §305.401, concerning amendments and compliance plans in regard to consolidated permits. The amendments incorporate regulations promulgated by the United States Environmental Protection Agency (EPA) in response to amendments to the Resource Conservation and Recovery Act (RCRA) enacted through the Hazardous and Solid Waste Amendments of 1984 (HSWA).

In §305.62(c)(2)(C)(ix), the reference to 40 Code of Federal Regulations §264.272(a) is amended to clarify the requirements incorporated by this reference. The amendment is not intended to change the effect of the clause.

Section 305.62(c)(2)(C)(xi) is added to incorporate regulations promulgated by the EPA, which allow for a minor amendment to a hazardous waste permit in the event a hazardous waste has been prohibited from one or more methods of land disposal under the federal land disposal regulations promulgated by the EPA on November 7, 1986, (51 FedReg 21010). The treatment of the hazardous waste must conform to the standards established by EPA as described in 40 Code of Federal Regulations Part 268, Subpart D. The amendment is not intended to allow minor amendments in the case of changes in treatment processes or changes in physical equipment.

In §305.401(c) the reference to 40 Code of Federal Regulations §270.14(c)(7) and (8), is proposed to be amended to clarify the requirements incorporated by this reference. The amendment is not intended to change the effect of the subsection. The subsection is further amended to conform to the federal regulations promulgated by the EPA on June 22, 1987, (52 FedReg 23447) as amended September 9, 1987, (52 FedReg 33936). Currently, owner/operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land treat-

ment units, or landfills that received waste after July 26, 1982, must submit feasibility studies and plans for a corrective action program in the Part B permit application when hazardous constituents in the ground water exceed specified limits. These requirements have caused delays in the issuance of land disposal permits as well as inconsistencies in the timing and approach for corrective action for various units at the same facility. The proposed amendments will allow the flexibility of conducting certain activities related to corrective action at the discretion of the executive director. These activities include the submittal of proposed schedules for obtaining information required in 40 Code of Federal Regulations, §270.14(c)(8) and a proposed permit schedule in lieu of an engineering plan.

David Crawford, chief fiscal officer, has determined that for the first five-year period the section will be in effect there will not be fiscal implications on state or local governments or small businesses.

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

To facilitate public comment on the proposed new sections and amendments to Chapter 305, the commission has scheduled a public hearing to receive such comments at 1:30 p.m., June 15, 1988, Room 118, Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin.

Persons desiring to provide written comments on the proposal may do so by sending them to Lisa M. Nicholson, Legal Division, Texas Water Commission, P.O. Box 13087; (512)463-8069. Written comments will be accepted 20 days after publication. Persons participating in the public hearing are encouraged to summarize their testimony in written presentations.

This amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission.

This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorize the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated to the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste, and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods, consistent with the powers and duties prescribed under the

Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§305.62. Amendment.

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

(c) Types of amendments.

(1) (No change.)

(2) A minor amendment is an amendment to improve or maintain the permitted quality or method of disposal of waste or injection of fluid if there is neither a significant increase of the quantity of waste or fluid to be discharged or injected nor a material change in the pattern or place of discharge or injection. A minor amendment includes any other change to a permit issued under this chapter that will not cause a potential deterioration of quality of water in the state nor relax a standard or criterion which may result in a potential deterioration of quality of water in the state. A minor amendment also includes, but is not limited to, the following:

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

(C) for solid waste permits, the following changes:

(i)-(viii) (No change.)

(ix) authorization for a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by the regulations contained in 40 Code of Federal Regulations 264.272(a) which are in effect as of April 1, 1983, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration; [or]

(x) change in ownership or operational control of a facility where the executive director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the executive director and provided that the requirements of §305.64 of this title (relating to Transfer of Permits) have been satisfied; or [.]

(xi) authorization of the treatment of hazardous wastes not previously specified in the permit if:

(I) the hazardous waste has been prohibited from one or more methods of land disposal under the regulations contained in 40 Code of Federal Regulations, Part 268 Subpart C which are in effect as of June 4, 1987, and treatment standards have been established under the regulations contained

in 40 Code of Federal Regulations Part 268 Subpart D as adopted in Subchapter O of this chapter (relating to Land Disposal Restrictions);

(II) treatment is in accordance with the standards established under the regulations contained in 40 Code of Federal Regulations §268.41, which are in effect as of June 4, 1987, or a variance established under the regulations contained in 40 Code of Federal Regulations §268.44, which are in effect as of June 4, 1987;

(III) handling and treatment of the restricted waste will not present risks substantially different from those of wastes listed in the permit; and

(IV) federal or state approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this clause.

(d)-(h) (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 May 25, 1988.

TRD-8805310

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988

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

Subchapter L. Compliance Plan

• 31 TAC §305.401

The amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorize the commission with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazard-

ous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§305.401. Compliance plan.

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

(c) Any investigation report to establish compliance monitoring or corrective action shall contain the information specified in the regulations contained in 40 Code of Federal Regulations §270.14(c)(7) and (8), which are in effect as of September 9, 1987. The executive director may authorize, in writing, in advance the submittal of a proposed permit schedule for the submittal of an engineering feasibility plan as set forth in the regulations contained in 40 Code of Federal Regulations §270.14(c)(7) which are in effect as of September 9, 1987. The executive director may also authorize, in writing, prior to the submittal of a complete permit application, the submittal of a schedule for the information required in the regulations contained in 40 Code of Federal Regulations §270.14(c)(8)(III) and (iv) as set forth in the regulations contained in 40 Code of Federal Regulations §270.14(c)(8)(v) which are in effect as of September 9, 1987. The executive director may request information necessary to determine the appropriateness and extent of corrective action required by §335.167 of this title (relating to Corrective Action for Solid Waste Management Units).

(d)-(h) (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 May 25, 1988.

TRD-8805311

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-8007

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

The Texas Water Commission proposes amendments to §§335.1, 335.6, 335.10-335.15, 335.24, 335.41, 335.61, 335.71, 335.76, 335.78, 335.112, 335.114, 335.152, 335.154, 335.222, 335.225, 335.226, 335.329, and new §335.431, concerning industrial solid waste and municipal hazardous waste. The regulations continue to shorten

references to municipal hazardous waste, when appropriate, to reference hazardous waste and to reference Class I industrial solid wastes as Class I wastes.

The majority of these amendments are proposed to incorporate rules promulgated by the Environmental Protection Agency (EPA) in response to amendments to the Resource Conservation and Recovery Act (RCRA) enacted through the Hazardous and Solid Waste Amendments of 1984 (HSWA). HSWA requirements are currently enforced by the EPA. These amendments are proposed to be adopted so that HSWA authorization may be obtained by the state. Throughout these regulations, dates have been added to update the provisions to conform to federal requirements. In addition, changes to the shipping and reporting procedures for generators of hazardous waste or Class I waste are proposed. These proposed changes are made to clarify the requirements which are applicable to different types of generators including primary exporters of hazardous waste. Amendments to §335.13, which were proposed in the April 1, 1988, *Texas Register* (13 TexReg 1524) are being withdrawn in this issue of the *Texas Register* and are being repropoed along with other amendments to §335.13.

Section 335.114 and §335.154, are amended to track the informational requirements of 40 Code of Federal Regulations §264.75 and §265.75 (applicable to owners and operators). The amendments require generators who treat, store or dispose of hazardous waste on-site to include a description of their efforts to reduce toxicity, and a description of the changes in volume and toxicity of waste in their annual report.

Sections 335.1, 335.10 -335.15, 335.24, 335.71, 335.76, and §335.78 are amended to incorporate the regulations promulgated by the EPA on August 8, 1987, (51 FedReg 28664) which govern exports and imports of hazardous waste. The proposed sections relate to the requirements for primary exporters of hazardous waste, transporters who transport waste to foreign countries, and importers of hazardous waste. The amendments track the EPA requirements, which provide that hazardous waste may not be exported unless notification of the intent to export hazardous waste is provided to the regional administrator of the EPA, prior written consent is obtained from the receiving country, a copy of the prior written consent is attached to the manifest, and the shipment conforms to the terms of the written consent.

Also in amended §335.13, a new subsection (c) is proposed to be inserted to correspond to the rule promulgated by the EPA at 40 Code of Federal Regulations §262.42(a). New subsection (c) provides that a generator who does not receive a copy of a manifest signed by the owner or operator of the facility designated to receive the waste shipment within 35 days of its acceptance by the initial transporter must contact the transporter and/or the designated facility to determine the status of the waste. The other subsections in §335.13, are redesignated to adjust for this new subsection. Newly designated subsection (f) is amended to reflect the insertion of subsection (c) and to provide an exemption for certain generators of small quantities of waste.

In order to conform to the federal regulations,

the amendments delineate between primary exporters of hazardous waste and generators of industrial solid waste and municipal hazardous waste.

In addition, specific reference is made with respect to off-site processing, storage or disposal facilities, which are located within the United States, to distinguish them from facilities which export hazardous waste.

Section 335.76 is amended to include special requirements for recordkeeping, shipping and manifesting pertaining to imports of hazardous waste. Additionally, §335.76 is amended to include special requirements for recordkeeping, shipping and manifesting pertaining to imports of hazardous waste. Section 335.76 is also amended to incorporate by reference 40 Code of Federal Regulations §262.58 which refers to the requirements of international agreements between the United States and receiving countries which established different notice export and enforcement procedures.

Section 335.24 is amended to place additional restrictions on the export of industrial ethyl alcohol in order to track the requirements of the federal regulations.

The following terms are proposed to be defined in 335.1: consignee, designated facility, EPA acknowledgement of consent, primary exporter, receiving country, and transit country.

The titles of §335.10 and §335.13 have been amended to include references to primary exporters of hazardous waste.

Corresponding amendments have been made throughout the rules where §335.10 and §335.13 are referenced.

Section 335.112(a)(10), is amended to incorporate interim status requirements for closing and providing postclosure care for hazardous waste surface impoundments promulgated by EPA on March 19, 1987, (52 FedReg 8704).

These amendments provide conformance between certain interim status requirements and those requirements contained in the permitting rules of 40 Code of Federal Regulations §264, promulgated by EPA on July 26, 1982. The amendments allow owners and operators of surface impoundments to remove or decontaminate wastes to avoid capping and postclosure care requirements. Under the amendments the owner or operator is no longer allowed to discontinue removal and certify closure by demonstrating that what remains is no longer a hazardous waste.

Sections 335.24, 335.41, 335.78, 335.112, and 335.152 are proposed to be amended to incorporate requirements applicable to land disposal restrictions promulgated by the EPA November 7, 1986, (51 FedReg 40572), as amended June 4, 1987, (52 FedReg 107).

New Subchapter O, §335.431, is added to adopt by reference, the requirements contained in 40 Code of Federal Regulations Part 268, A, CE and Appendices, which are in effect as of June 4, 1987. The purpose of these requirements is to establish a regulatory framework for implementing the land disposal restrictions and to promulgate treatment standards and associated effective dates for certain solvent and dioxincontaining wastes.

Section 335.24 and §335.78 are amended to exempt certain recyclable materials and small quantity generators of less than 100 kilograms of nonacute hazardous wastes per month or less than 1 kilogram of acute hazardous waste as defined in §335.78 from the requirements of Subchapter O.

Section 335.41 is amended to exclude hazardous waste remaining in either an empty container or an inner liner removed from an empty container from the requirements of Subchapter O. Because the federal regulations exempt transfer facilities from the requirements of 40 Code of Federal Regulations Part 268, these requirements have not been proposed to be added to requirements for transporters contained in §335.94. Sections 112(a)(1) and (4) and 335.152(a)(1) and (4) are amended to incorporate by reference the requirements applicable to land disposal restrictions. The referenced date in the opening paragraphs of 335.112 and 335.152 has been updated to reference the effective date of June 4, 1987, as established in the June 4, 1987, *Federal Register*. Other provisions of this EPA rulemaking have been previously adopted.

Sections 335.24, 335.222, 335.225, and 335.226 are amended to include technical corrections identified by EPA in the April 13, 1987, *Federal Register* (52 FedReg 11819). These corrections clarify EPA's intent that the notification requirements promulgated by EPA in November 29, 1985 (50 FedReg 49164) are in addition to the notification requirement in RCRA §3010(a). These additional reporting requirements for marketers and burners of hazardous waste fuels are not a prerequisite for interim status.

Section 335.221(b) incorporates these corrections by reference. The commission has jurisdiction over wastes defined as hazardous by the administrator of the EPA. The EPA has promulgated corrections, interpretations, and additions to the definition of hazardous waste which affect the universe of hazardous waste as defined by the commission. The EPA has interpreted the scope of EPA Hazardous Waste No. F006 in the December 2, 1986, *Federal Register*. This listing has been clarified to limit the listing to those processes explicitly referred to in the rule. EPA promulgated regulations listing as hazardous waste four wastes generated during the production and formulation of ethylene bisdithiocarbamic acid (EBDC) on October 24, 1986, (51 FedReg 206). The definition of hazardous wastes was clarified to more clearly state that hazardous wastes are always subject to regulation prior to being used in a manner that constitutes disposal in regulations promulgated by EPA on June 5, 1987, (52 FedReg 108). EPA promulgated corrections to listings of commercial chemical products on August 6, 1986, (51 FedReg 28296).

David Crawford, chief fiscal officer, has determined that there will not be fiscal implications for state or local governments or small businesses as a result of this rulemaking.

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

To facilitate public comment on the proposed new sections and amendments to Chapter 335, the commission has scheduled a public hearing to receive such comments at 1:30 p.m., June 15, 1988, Room 118, Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin. Persons desiring to provide written comments on the proposal may do so by sending them to Lisa M. Nicholson, Legal Division, Texas Water Commission, P.O. Box 13087; (512) 463-8069. Written comments will be accepted 20 days after publication. Persons participating in the public hearing are encouraged to summarize their testimony in written presentations.

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste in General

• 31 TAC §§335.1, 335.6, 335.10-335.15, 335.24

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. The amendments are also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the commission with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste, and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

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

Consignee—The ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.

Designated facility—A Class I or hazardous waste storage, processing, or disposal facility which has received an Environmental Protection Agency (EPA) permit (or a facility with interim status) in accordance with the requirements of 40 Code of Federal Regulations Parts 270 and 124; a permit from a state authorized in accordance with 40 Code of Federal Regulations

Part 271 (in the case of hazardous waste); a permit issued pursuant to §335.2 of this title (relating to Permit Required) (in the case of nonhazardous waste); or that is regulated under §335.24(f), (g), or (h) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials) or §335.241 of this title (relating to Applicability and Requirements) and that has been designated on the manifest by the generator pursuant to §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste).

EPA acknowledgment of consent—The cable sent to EPA from the United States Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste, and describes the terms and conditions of the receiving country's consent to the shipment.

Primary exporter—Any person who is required to originate the manifest for a shipment of hazardous waste in accordance with the regulations contained in 40 Code of Federal Regulations Part 262, Subpart B, which are in effect as of August 8, 1986, or equivalent state provision, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

Receiving country—A foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal (except short-term storage incidental to transportation).

Transit country—Any foreign country, other than a receiving country, through which a hazardous waste is transported.

Used oil—Any oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities. Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatment.

§335.6. Notification Requirements

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

(c) Any person who generates municipal hazardous waste in quantities greater than or equal to 1000 kilograms in a calendar month or quantities of acute municipal hazardous waste in excess of quantities specified in §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators) in a calendar month; or any quantities of industrial solid waste shall notify the executive director of such activity on forms furnished or approved by

the executive director. Such person shall also submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether the storage, processing, or disposal is compliant with the terms of this chapter. Notifications submitted pursuant to this section shall be in addition to information provided in any permit applications required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators), §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste), and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste). Any person who notifies pursuant to this subsection shall have the continuing obligation to immediately provide written notice to the executive director of any changes or additional information, to that reported previously. If waste is recycled onsite or managed pursuant to §335.2(d) of this title (relating to Permit Required), the generator must also comply with the notification requirements specified in subsection (h) of this section. The information submitted pursuant to the notification shall include, but is not limited to:

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

(d) Persons generating more than 100 kilograms but less than 1000 kilograms of hazardous municipal waste in any given calendar month shall notify the executive director of such activity on forms provided by the executive director. Such person shall also submit to the executive director upon request such information as may be reasonably required to enable the executive director to determine whether the storage, processing, or disposal of such waste is compliant with the terms of these sections. Notifications submitted pursuant to this section shall be in addition to any information provided on any permit application required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Shipping and Reporting Procedures Applicable to Generators), §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of [Municipal] Hazardous Waste or Class I [Industrial Solid] Waste and Primary Exporters of Hazardous Waste), and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping [of Municipal] Hazardous Waste or Class I [Industrial Solid] Waste and Primary Exporters of Hazardous Waste).

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

§ 335.10. Shipping and Reporting Procedures Applicable to Generators of Hazard-

ous Waste or Class I Waste and Primary Exporters of Hazardous Waste).

(a) Except as provided in subsection (g) of this section, no generator of hazardous or Class I waste consigned to an offsite solid waste storage facility within the United States or primary exporter of hazardous waste consigned to a foreign country shall cause, suffer, allow, or permit the shipment of hazardous waste or Class I waste unless:

(1) for generators of Class I waste and generators [and no generator] of municipal hazardous waste shipping municipal hazardous waste which is part of a total quantity of municipal hazardous waste generated in quantities greater than 100 kilograms in a calendar month, or quantities of acute hazardous waste in excess of quantities specified in §335.78(e) of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators), who consign that waste [shall cause, suffer, allow, or permit the shipment of hazardous waste or Class I waste consigned] to an offsite solid waste storage, processing, or disposal facility in Texas, [without preparing] a Texas Water Commission (TWC) manifest on Form TWC0311, and, if necessary, TWC0311B is prepared;[.]

(2) the generator is a conditionally exempt small quantity generator (CESQG) of municipal hazardous waste; [Conditionally exempt small quantity generators (CESQGs) of municipal hazardous waste who chooses to manifest their hazardous waste may do so using the simplified instructions for CESQGs that are included in subsection (b) of this section.]

(3) for generators of [Any] hazardous waste or Class I waste generated in Texas for consignment to another state [must be accompanied by] the consignment state's manifest, if provided, or [by] a TWC manifest if the consignment state does not provide a manifest, is prepared;

(4) for a primary exporter of hazardous waste for consignment to a foreign country the hazardous waste is accompanied by a manifest from the primary exporter's state if that state supplies the manifest form and requires its use or a manifest from any source if the primary exporter's state does not supply the manifest form; and[.]

(5) a generator designates [shall designate] on the manifest one facility which is authorized to receive the waste described on the manifest. A generator may also designate one alternate facility which is authorized to receive the waste in the event an emergency prevents delivery of the waste to the primary designated facility. An alternate facility shall be identified on the manifest in the item marked "Special Handling Instructions and Additional Information." If the transporter is unable to deliver the waste to the designated facility or the

alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(b) (No change.)

(c) The manifest shall consist of at least the number of copies which will provide the generator, each transporter, [and] the owner or operator of the storage, processing, or disposal facility and in the case of hazardous waste exports, the United States customs official, with one copy each for their records and another copy to be returned to the generator.

(d)-(g) (No change.)

(h) Conditionally exempt small quantity generators (CESQGs) of municipal hazardous waste who choose to manifest their hazardous waste may do so using the simplified instructions for CESQGs that are included in subsection (b) of this section.

§335.11. Shipping Requirements for Transporters of Hazardous Waste or Class I Waste.

(a) No transporter may cause, suffer, allow, or permit the shipment of solid waste for which a manifest is required under §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste) to an offsite storage, processing, or disposal facility, unless the transporter:

(1) obtains a manifest completed by the generator or primary exporter where appropriate in accordance with §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste);

(2) upon receipt and prior to shipment, signs and dates the manifest acknowledging the acceptance of waste from the generator or primary exporter where appropriate; and[.]

(3) returns a signed copy to the generator or primary exporter where appropriate before leaving the generator's property; and[.]

(4) in the case of hazardous waste exports, knows that the shipment conforms to the requirements set forth in the regulations contained in 40 Code of Federal Regulations §263.20(a), which are in effect as of August 8, 1986.

(b) (No change.)

(c) No transporter may cause, suffer, allow, or permit the delivery of a shipment of hazardous waste or Class I waste to another transporter designated on the manifest, unless the transporter:

(1) (No change.)

(2) retains one copy of the man-

ifest in accordance with §335.14(a) of this title (relating to Record-keeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste); [and]

(3) gives the remaining copies of the manifest to the accepting transporter; and[.]

(4) in the case of hazardous waste exports, ensures that a copy of the EPA acknowledgement of consent also accompanies the hazardous waste.

(d) (No change.)

(e) The requirements of subsections (b)-(d) and (f) of this section do not apply to water (bulk shipment) transporters if:

(1) (No change.)

(2) a shipping paper containing all the information required on the manifest (excluding the identification numbers, generator certification, and signatures) and, for hazardous waste exports, an EPA acknowledgement of consent accompanies the waste;

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

(f) For shipments involving rail transportation, the requirements of subsections (b)-(e) of this section do not apply and the following requirements do apply:

(1) (No change.)

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding [including] the EPA identification numbers, generator certification, and signatures) and, for hazardous waste exports, an EPA acknowledgement of consent accompanies the waste at all times. Intermediate rail transporters are not required to sign either the manifest or shipping paper.

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

(g) Transporters who transport hazardous waste or Class I waste out of the United States shall:

(1) (No change.)

(2) sign the manifest and retain one copy in accordance with §335.14(c) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste); and[.]

(3) return a signed copy of the manifest to the generator or primary exporter where appropriate; and[.]

(4) give a copy of the manifest to a United States customs official at the point of departure from the United States.

(h)-(i) (No change.)

§335.12. Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities.

(a) No owner or operator of a storage, processing, or disposal facility may accept delivery of solid waste for which a

manifest is required under §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste), for offsite storage, processing, or disposal unless:

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

(3) retains one copy of the manifest in accordance with §335.15(a) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities); [and]

(4) within 30 days after the delivery, sends a copy of the manifest to the generator or primary exporter where appropriate; and[.]

(5) In the case of hazardous waste exports, a copy of the EPA acknowledgement of consent also accompanies the waste and the owner or operator has no knowledge that the shipment does not conform to the EPA acknowledgement of consent.

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

§335.13. Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste.

(a) The generator or primary exporter shall retain a copy of each manifest required by §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste) for a minimum of three years from the date of shipment by the generator or primary exporter.

(b) Generators or primary exporters who ship to other states, or import shipments from outside the United States through Texas to other states, or export hazardous waste to a foreign country, shall prepare a shipment summary from the manifests, summarizing the quantity and classification of each waste shipment itemized by manifest document number. Such shipment summary shall be prepared on forms provided or approved by the executive director and submitted to the Texas Water Commission on or before the 25th day of each month for shipments originating during the previous month. A generator or primary exporter must keep a copy of each summary for a period of at least three years from the due date of the summary. A generator or primary exporter required to comply with this subsection shall prepare and submit a shipment summary for only those months in which he actually made shipments. Conditionally exempt small quantity generators shipping municipal hazardous waste are not subject to the requirements of this subsection.

(c) A generator who does not receive a copy of the manifest with the

handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste or Class I waste.

(d)[(c)] A generator must submit an exception report to the commission if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date that the waste was accepted by the initial transporter. Primary exporters of hazardous waste must submit an exception report to the executive director as set forth in §335.76(c) of this title (relating to Additional Requirements Applicable to International Shipments). The exception report must be retained by the generator or primary exporter for at least three years from the date the waste was accepted by the initial transporter and must include:

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

(e)[(d)] The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

(f)[(e)] The requirements of subsections [subsection] (c) and (d) of this section do not apply to generators generating hazardous waste or Class I waste in quantities less than 100 kilograms in a calendar month, or acute hazardous waste in quantities specified in §335.78(e)(1) or (2) of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators).

§335.14. Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste.

(a) A transporter of hazardous waste or Class I waste shall retain a copy of each manifest signed by the generator or, in the case of exports of hazardous waste, the primary exporter; the transporter; and the next designated transporter, or the owner or operator of the facility designated on the manifest for a minimum of at least three years from the date of initial shipment.

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

(d) A transporter who transports waste out of the United States must retain a copy of the manifest indicating that the hazardous waste or [Class I] waste left the United States for a minimum of three years from the date of initial shipment.

(e) (No change.)

§335.15. Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities. This section does not apply to owners and operators that store, process, or

dispose of hazardous waste or Class I waste on-site and do not receive any Class I waste from off-site sources.

(1) The owner or operator of the storage, processing, or disposal facility designated on the manifest shall retain a copy of each manifest or, in the case of shipments by rail or water (bulk shipment), a copy of each manifest and shipping paper, for a minimum of three years from the date of initial shipment by the generator or primary exporter where appropriate.

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

§335.24. Requirements For Recyclable Materials and Nonhazardous Recyclable Materials.

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

(c) The following recyclable materials are not subject to regulation under Subchapters B-I and O of this chapter, (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, and Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing or Disposal; Standards for the Management of Specific Wastes and Specific Types of Facilities; [and] Prohibition on Open Dumps; and Land Disposal Restrictions), respectively, or Chapters 261, 263, 265, 267, 269, 271, 273, and 305 of this title (relating to Introductory Provisions; General Rules; Procedures Before Public Hearing; Procedures During Public Hearing; Procedures After Public Hearing Before an Examiner; Procedures After Public Hearing Before the Full Commission; Procedures After Final Decision; and Consolidated Permits), except as provided in subsections (g) and (h) of this section:

(1) industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in the regulations contained in 40 Code of Federal Regulations §262.58, which are in effect as of August 8, 1986:

(A) a person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, must comply with the requirements applicable to a primary exporter in the regulations contained in 40 Code of Federal Regulations §§262.53, 262.56(a)(1)(4) and (6) and (b), and 262.57, which are in effect as of August 8, 1986, export such materials only upon consent of the receiving country and in conformance with the EPA acknowledgement of consent as defined in the regulations contained in 40 Code of Federal Regulations, Part 262, Subpart E, which

are in effect as of August 8, 1986, and provide a copy of the EPA acknowledgement of consent to the shipment to the transporter transporting the shipment for export;

(B) transporters transporting a shipment for export may not accept a shipment if he knows the shipment does not conform to the EPA acknowledgement of consent, must ensure that a copy of the EPA acknowledgement of consent accompanies the shipment and must ensure that it is delivered to the facility designated by the person initiating the shipment;

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

(7) coke coal tar from the iron and steel industry that contains EPA Hazardous Waste Number K087 (decanter tank tar sludge from coking operations) hazardous waste from the iron and steel production process;

(8) the following hazardous waste fuels:

(A) hazardous waste fuel produced from oil bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under 40 Code of Federal Regulations §266.40(e) and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

(B) hazardous waste fuel produced from oil bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under 40 Code of Federal Regulations §266.40(e) [§266.40(c)];

(C) (No change.)

(9) (No change.)

(d)-(f) (No change.)

(g) Except as provided in subsection (h) of this section, recyclable materials (excluding those listed in subsection (c)(1) and (5)-(9) of this section), remain subject to the requirements of §§335.4, 335.6, and 335.9-335.15 of this title (relating to General Prohibitions; Notification Requirements; Recordkeeping and Annual Reporting Procedures Applicable to Generators; Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste; Shipping

Requirements for Transporters of Hazardous Waste or Class I Waste; Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities; Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste; Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste; and Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities; respectively), as applicable.

(h) Industrial solid wastes that are nonhazardous recyclable materials; and recyclable materials listed in subsection (b)(5) and subsection (c)(2)-(4) of this section remain subject to the requirements of §335.4 of this title (relating to General Prohibitions) and , §335.6 of this title (relating to Notification Requirements). Such waste may also be subject to the requirements of §§335.10-335.15 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste or Primary Exporters of Hazardous Waste); Shipping Requirements Applicable to Owners or Operators of Storage, Processing or Disposal Facilities; Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste; Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste; and Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities; respectively), as applicable, if the executive director determines that such requirements are necessary to protect human health and the environment. In making the determination, the executive director shall consider the following criteria:

(1)-(9) (No change.)

(i) (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 May 25, 1988.

TRD-8805312

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988

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

◆ ◆ ◆
Subchapter B. Hazardous
Waste Management General
Provisions

• 31 TAC §335.41

The amendment is proposed under the Texas

Water Code, §§5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policy of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorize the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.41. Purpose, Scope, and Applicability.

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

(f) The following requirements apply to residues of hazardous waste in containers:

(1) Subchapters B-F and O of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; [and] Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, or Disposal Facilities; and Land Disposal Restrictions) do not apply to any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in paragraph (2) of this subsection. This exemption does not apply to any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty.

(2) (No change.)

(g) Subchapters B-F and O of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; [and] Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing or Disposal Facilities; and Land Disposal Restrictions) do not apply to hazardous waste which is managed as a

recyclable material described in §335.24(b) and (c) of this title (relating to Requirements for Recyclable Materials and Non-hazardous Recyclable Materials), except to the extent that requirements of these subchapters are referred to in Subchapter H of this chapter (relating to Standards for the Management of Specific Wastes and Specific Types of Facilities).

(b) Subchapter E of this chapter (relating to Interim Standards for Owners and Operators of Hazardous Waste, Storage, Processing, or Disposal Facilities) and Subchapter F of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, or Disposal Facilities) apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in Subchapter O (relating to Land Disposal Restrictions).

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

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William G. Newchurch
Director, Legal Division
Texas Water Commission

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

◆ ◆ ◆
**Subchapter C. Standards
Applicable to Generators of
Hazardous Waste.**

• §§335.61, 335.71, 335.76,
335.78

These amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legis-

lation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.61. *Purpose, Scope and Applicability.*

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

(d) An owner or operator who initiates a shipment of hazardous waste from a processing, storage, or disposal facility must comply with the generator standards contained in §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste) and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste), and this subchapter. The provisions of §335.69 of this title (relating to Accumulation Time) are applicable to on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §335.69 of this title (relating to Accumulation Time) only apply to owners or operators who are shipping hazardous waste which they generate at that facility.

(e) (No change.)

§335.71. *Annual Reporting.*

(a) Any generator or primary exporter who ships hazardous waste offsite shall prepare and submit a single copy of an annual report to the executive director by January 25 of each year. The annual report must cover facility activities during the previous calendar year and must include the following information:

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

(3) the EPA identification number, TWC registration number, name, and address for each off-site processing, storage, or disposal facility within the United States to which waste was shipped during the year [for exported shipments, the report must give the name and address of the foreign facility];

(4) the name and EPA identification number and TWC registration number of each transporter used during the reporting year for shipments to a processing, storage, or disposal facilities within the United States;

(5) the TWC hazardous waste code and a description, EPA hazardous waste number from 40 Code of Federal Regulations Part 261, Subpart C or D, United States Department of Transportation (DOT) hazard class, and quantity of each hazardous waste shipped offsite for shipments to a processing, storage, or disposal facility within the United States. This information must be listed by EPA identification number of each offsite facility to which waste was shipped;

(6)-(8) (No change.)

(b) Any generator who processes, stores, or disposes of hazardous waste on-site must submit a report in accordance with the provisions of §335.114 of this title (relating to Reporting Requirements) and §335.154 of this title (relating to Reporting Requirements for Owners and Operators).

(c) Primary exporters of hazardous waste must submit an annual report in accordance with the requirements set out in the regulations contained in 40 Code of Federal Regulations §262.56, which are in effect as of August 8, 1986. §335.76. *Additional Requirements Applicable to International Shipments.*

(a) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the state must comply with the requirements of this title and with the special requirements of this section. Except to the extent the regulations contained in 40 Code of Federal Regulations §262.58 which are in effect as of August 8, 1986, provide otherwise, a primary exporter of hazardous waste must comply with the special requirements of this section as they apply to primary exporters and a transporter transporting hazardous waste for export must comply with applicable requirements of §335.11 of this title (relating to Shipping Requirements for Transporters of Hazardous Waste or Class I Waste) and §335.14 of this title (relating to Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste) and Subchapter D of this chapter (relating to Standards Applicable to Transporters of Hazardous Waste). Title 40 Code of Federal Regulations §262.58 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, processing, storage and disposal of hazardous waste for shipments between the United States and those countries.

[(b) When shipping hazardous waste outside the United States, the generator must:]

[(1) require that the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose; and]

[(2) meet the requirements under §335.10(b) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste) for the manifest, except that:]

[(A) in the place of the name, address and Environmental Protection Agency (EPA) identification number of the designated facility, the name and address of the foreign consignee must be

used; and]

(B) the generator must identify the point of departure from the United States through which waste must travel before entering a foreign country. This information must be placed in the item labeled "Special Handling Instructions and Additional Information" on the manifest.]

(3) When exporting hazardous waste to a foreign country, notify the administrator pursuant to 40 Code of Federal Regulations §262.50 in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year.]

(b) Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this subchapter, the special requirements of this section, and §335.11 of this title (relating to Shipping Requirements for Transporters of Hazardous Waste or Class I Waste) and §335.14 of this title (relating to Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste) and Subchapter D of this chapter (relating to Standards Applicable to Transporters of Hazardous Waste). Exports of hazardous waste are prohibited unless:

(1) notification in accordance with the regulations contained in 40 Code of Federal Regulations §262.53 which are in effect as of August 8, 1986, has been provided;

(2) the receiving country has consented to accept the hazardous waste;

(3) a copy of the EPA acknowledgement of consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment));

(4) the hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA acknowledgement of consent; and

(5) the primary exporter complies with the manifest requirements of §335.10(a)(d) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste) except that:

(A) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary exporter must enter the name and site address of the consignee;

(B) In lieu of the name, site address and EPA ID number of a permit-

ted alternate facility, the primary exporter may enter the name and site address of any alternate consignee;

(C) In Special Handling Instructions and Additional Information, the primary exporter must identify the point of departure from the United States;

(D) the following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form, as set out in §335.10(b)(23) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste): "and conforms to the terms of the attached EPA acknowledgement of Consent";

(E) the primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in §335.12(c)(1) of this title (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) as the subsection applies to hazardous waste) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste;

(F) in lieu of the requirements of §335.10(a) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste or Primary Exporters of Hazardous Waste), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

(i) *renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with the regulations contained in 40 Code of Federal Regulations §262.53(c), which are in effect as of August 8, 1986, and obtain an EPA acknowledgement of consent prior to delivery; or*

(ii) *instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and*

(iii) *instruct the transporter to revise the manifest in accordance with the primary exporter's instructions;*

(G) the primary exporter must attach a copy of the EPA acknowledgement of consent to the shipment to

the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA acknowledgement of consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA acknowledgement of consent to the shipping paper; and

(H) the primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the United States customs official at the point the hazardous waste leaves the United States in accordance with §335.11(g)(4) of this title (relating to Shipping Requirements for Transporters of Hazardous Waste or Class I Waste).

(c) A primary exporter [generator] must submit an exception report to the executive director if:

(1) he has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter; [or]

(2) within 90 days from the date the waste was accepted by the initial transporter, the primary exporter [generator] has not received written confirmation from the foreign consignee that the hazardous waste was received; or

(3) the waste was returned to the United States.

(d) When importing hazardous waste into the state from a foreign country, a person must prepare a manifest in accordance with the requirements of §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste) for the manifest except that:

(1) in place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used; [and]

(2) in place of the generator's signature on the certification statement, the United States importer or his agent must sign and date the certification and obtain the signature of the initial transporter; and

(3) a person who imports hazardous waste must obtain the manifest form from the consignment state if the State supplies the manifest and requires its use. If the consignment State does not supply the manifest form, then the manifest form may be obtained from any source.

(e) (No change.)

(f) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the state must comply with the requirements of the regulations contained in 40 Code of Federal Regulations §262.58 (International Agreements) which are in effect as of August 8, 1986.

(g) Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 or the rules of the commission, primary exporters must comply with the regulations contained in 40 Code of Federal Regulations §262.57 which are in effect as of August 8, 1986. §335.78. *Special Requirements for Hazardous Waste Generated By Conditionally Exempt Small Quantity Generators.*

(a) (No change.)

(b) Except for those wastes identified in subsections (e)(g) and (j) of this section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Subchapters C-H and O of this chapter (relating to Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; [and] Standards for the Management of Specific Wastes and Specific Types of Facilities; and Chapters 261, 263, 265, 267, 269, 271, 273, and 305 of this title (relating to Introductory Provisions; General Rules; Procedures Before Public Hearing; Procedures During Public Hearing; Procedures After Public Hearing Before An Examiner; Procedures After Public Hearing Before the Full Commission; Procedures After Final Decision; and Consolidated Permits) and the notification requirements of the Resource Conservation and Recovery Act, §3010, provided the generator complies with the requirements of subsections (f), (g), and (j) of this section.

(c) Hazardous waste that is not subject to regulation or that is subject only to §§335.62, 335.63, 335.70, and 335.71 of this title (relating to Hazardous Waste Determination; EPA Identification Numbers; Recordkeeping; and Annual Reporting) is not included in the quantity determinations of this section and Subchapters C-H and O of this chapter (relating to Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Oper-

ators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; [and] Standards for the Management of Specific Wastes and Specific Types of Facilities; and Land Disposal Restrictions) and Chapter 305 of this title (relating to Consolidated Permits) and is not subject to any of the requirements of such subchapters or chapter. Hazardous waste that is subject to the requirements of §§335.24(d)-(f), 335.211, 335.214, 335.221-335.226, and 335.241 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials; Recyclable Materials Used in a Manner Constituting Disposal; Hazardous Waste Burned for Energy Recovery; and Applicability and Requirements) is included in the quantity determination of this section and is subject to the requirements of Subchapters C-H of this chapter (relating to Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; and Standards for the Management of Specific Wastes and Specific Types of Facilities) and Chapter 305 of this title (relating to Consolidated Permits).

(d) (No change.)

(e) If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth in paragraphs (1) or (2) of this subsection, all quantities of that acute hazardous waste are subject to full regulation under Subchapters C-H and O of this chapter (relating to Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; [and] Standards for the Management of Specific Wastes and Specific Types of Facilities; and Land Disposal Restrictions) and Chapters 261, 263, 265, 267, 269, 271, 273, and 305 of this title (relating to Introductory Provisions; General Rules; Procedures Before Public Hearing; Procedures During Public Hearing; Procedures After Public Hearing Before An Examiner; Procedures After Public Hearing Before the Full Commission; Procedures After Final Decision; and Consolidated Permits) and the notification requirements of the Resource Conservation and Recovery Act, §3010:

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

(f) In order for acute hazardous

wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (2) of this section to be excluded from full regulation under this section, the generator must comply with the following requirements .

(1) (No change.)

(2) The generator may accumulate acute hazardous waste on-site. If he accumulates at any time acute hazardous wastes in quantities greater than those set forth in subsection (e)(1) or (2) of this section, all of those accumulated wastes are subject to regulation under Subchapters C-H and O of this chapter (relating to Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; [and] Standards for the Management of Specific Wastes and Specific Types of Facilities; and Chapters 261, 263, 265, 267, 269, 271, 273, and 305 of this title (relating to Introductory Provisions; General Rules; Procedures Before Public Hearing; Procedures During Public Hearing; Procedures After Public Hearing Before An Examiner; Procedures After Public Hearing Before the Full Commission; Procedures After Final Decision; and Consolidated Permits) and the notification requirements of the Resource Conservation and Recovery Act, §3010. The time period of §335.69(f) of this title (relating to Accumulation Time) for accumulation of wastes on-site begins when the accumulated wastes exceed the applicable exclusion limit.

(3) A conditionally exempt small quantity generator may either process or dispose of his acute hazardous waste in an on-site facility, or ensure delivery to an offsite storage, processing or disposal facility, either of which, if located in the United States, is:

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

(g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements .

(1) (No change.)

(2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous wastes, all of

those accumulated wastes are subject to regulation under the special provisions of this subchapter applicable to generators of between 100 kilograms and 1000 kilograms of hazardous waste in a calendar month as well as the requirements of Subchapters D-H and O of this chapter (relating to Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; [and] Standards for the Management of Specific Wastes and Specific Types of Facilities; and Land Disposal Restrictions) and Chapters 261, 263, 265, 267, 269, 271, 273, and 305 of this title (relating to Introductory Provisions; General Rules; Procedures Before Public Hearing; Procedures During Public Hearing; Procedures After Public Hearing Before An Examiner; Procedures After Public Hearing Before the Full Commission; Procedures After Final Decision; and Consolidated Permits) and the notification requirements of the Resource Conservation and Recovery Act, §3010. The time period of §335.69(f) of this title (relating to Accumulation Time) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kilograms.

(3) A conditionally exempt small quantity generator may either process or dispose of his hazardous waste in an on-site facility, or ensure delivery to an offsite storage, processing or disposal facility, either of which, if located in the United States, is:

(A)-(E) (No change.)

(h)-(j) (No change.)

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

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Lisa Nicholson
Attorney, Legal Division
Texas Water Commission

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

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**Subchapter E. Interim
Standards for Owners and
Operators of Hazardous
Waste**

• 31 TAC §335.112, §335.114

This amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission

with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.112. Standards

(a) Except to the extent that they are clearly inconsistent with the express provisions of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or the rules of the commission (including the provisions set forth in this subchapter), the following regulations contained in 40 Code of Federal Regulations Part 265 (including all appendices to Part 265) which are in effect as of June 4, 1987, [January 12, 1987.] are adopted by reference:

(1)-(16) (No change.)

§335.114. Reporting Requirements.

(a) The owner or operator must prepare and submit to the executive director by January 25 of each year a single copy of an annual report which covers facility activities during the previous year and contains the following information:

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

(6) the most recent closure cost estimate under the regulations contained in 40 Code of Federal Regulations §265.142, which are in effect as of May 2, 1986, and §335.127 of this title (relating to Cost Estimate for Closure), and, for disposal facilities, the most recent postclosure cost estimate under the regulations contained in 40 Code of Federal Regulations §265.144 which are in effect as of May 2, 1986; [and]

(7) for generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(8) for generators who treat,

store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(9)[(7)] the certification signed by the owner or operator of the facility or his authorized representative.

(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.

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William G. Newchurch
Director, Legal Division
Texas Water Commission

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

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**Subchapter F. Permitting
Standards for Owners and
Operators of Hazardous
Waste Storage, Processing or
Disposal**

• 31 TAC §335.152, §335.154

This amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.152. Standards.

(a) Except to the extent that they are clearly inconsistent with the Solid

Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or the rules of the commission (including the provisions set forth in this subchapter), the following regulations contained in 40 Code of Federal Regulations Part 264 (including all appendices to Part 264), which are in effect as of June 4, 1987, [January 12, 1987,] are adopted by reference:

(1)-(13) (No change.)

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

§335.154. *Reporting Requirements for Owners and Operators.*

(a) The owner or operator must prepare and submit to the executive director by January 25 of each year an annual report which covers facility activities during the previous calendar year and which contains the following information:

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

(5) the most recent closure cost estimate under the regulations contained in 40 Code of Federal Regulations §264.142 which are in effect as of May 2, 1986, and §335.178 of this title (relating to Cost Estimate For Closure) and, for disposal facilities, the most recent post-closure cost estimate under the regulations contained in 40 Code of Federal Regulations §264.144 which are in effect as of May 2, 1986; [and]

(6) for generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(7) for generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(8)[(6)] the certification signed by the owner or operator of the facility or his authorized representative.

(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 May 25, 1988.

TRD-8805317

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988

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

Subchapter H. Standards for the Management of Specific Wastes and Specific Types of Facilities

• 31 TAC §§335.222, 335.225, 335.326

This amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.222. *Prohibitions.*

(a) A person may market hazardous waste fuel only:

(1) to persons who have notified the United States Environmental Protection Agency of their hazardous waste fuel activities [under the Resource Conservation and Recovery Act (RCRA), §3010, as amended, 42 United States Code §6901 et seq.] and have a United States Environmental Protection Agency identification number; and

(2) (No change.)

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

§335.225. *Standards Applicable to Marketers of Hazardous Waste Fuel.* Persons who market hazardous waste fuel are called marketers. Marketers include generators who market hazardous waste fuel directly to a burner, persons who receive hazardous waste from generators and produce, process, or blend hazardous waste fuel from these hazardous wastes, and persons who distribute but do not process or blend hazardous waste fuel. Marketers must comply with the following requirements .

(1) (No change.)

(2) Notification. [Notification

requirements are under the Resource Conservation and Recovery Act (RCRA), §3010, as amended, 42 United States Code §6901 et seq., and §335.6 of this title (relating to Notification Requirements) for hazardous waste fuel activities.] Even if a marketer has previously notified the United States Environmental Protection Agency of his hazardous waste management activities and obtained a United States Environmental Protection Agency Identification Number, he must renotify to identify his hazardous waste fuel activities.

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

(5) Required notices. The following notices are required .

(A) Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(i) the burner or marketer has notified the United States Environmental Protection Agency [under the Resource Conservation and Recovery Act (RCRA), §3010, as amended, 42 United States Code §6901 et seq.] and identified his waste as fuel activities; and

(ii) (No change.)

(B) (No change.)

(6) (No change.)

§335.226. *Standards Applicable to Burners of Hazardous Waste Fuel.* Owners and operators of industrial furnaces and boilers identified in §335.222(b) of this title (relating to Prohibitions) that burn hazardous fuel are burners and are subject to the following requirements .

(1) (No change.)

(2) Notification. [Notification requirements are under the Resource Conservation and Recovery Act, §3010, and §335.6 of this title (relating to Notification Requirements) for hazardous waste fuel activities.] Even if a burner has previously notified the United States Environmental Protection Agency of his hazardous waste management activities and obtained a United States Environmental Protection Agency identification number, he must renotify to identify his hazardous waste fuel activities.

(3) (No change.)

(4) Required notices. Before a burner accepts the first shipment of hazardous waste fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(A) he has notified the United States Environmental Protection Agency [under the Resource Conservation and Recovery Act (RCRA), §3010, as

amended, 42 United States Code §6901 et seq.] and identified his waste-as-fuel activities; and

(B) (No change.)

(5) (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 May 25, 1988.

TRD-8805318

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988.

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

Subchapter J. Hazardous Waste Generation, Facility and Disposal Fees System

• 31 TAC §335.329

This amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.329. *Records and Reports.*

(a) Generators of hazardous waste are required to keep records of the amount of hazardous waste they generate and the dry weight amount of each hazardous waste which is designated for land disposal. In addition, generators are required to provide each operator of a land disposal facility a certificate of computation of the dry weight to be disposed. For each offsite shipment,

the dry weight amount of each hazardous waste is to be recorded in Item J of the uniform hazardous waste manifest in §335.30 of this title (relating to Appendix I). Generators are to submit the appropriate reports under §335.13(b) of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping [of] [Municipal] Hazardous Waste or Class I-[Industrial Solid] Waste and Primary Exporters of Hazardous Waste) on forms furnished or approved by the executive director . . .

(b)-(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 May 25, 1988.

TRD-8805319

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988.

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

Subchapter O. Land Disposal Restrictions

• 31 TAC §335.431

This new section is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This new section is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.431. *Purpose, Scope, and Applicability.*

(a) The purpose of this subchapter is to identify hazardous wastes that are re-

stricted from land disposal and define those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

(b) Except as specifically provided otherwise in this subchapter; §§335.24, 335.41, or 335.78 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials; Purpose, Scope, and Applicability; and Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators); or 40 Code of Federal Regulations §261 to the extent it is consistent with this chapter and the Solid Waste Disposal Act, the requirements of this subchapter apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment storage and disposal facilities.

(c) Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or the rules of the commission (including any provisions set forth in this subchapter), the regulations contained in 40 Code of Federal Regulations Part 268, Subpart A, C-E, and Appendices I and II, which are in effect as of June 4, 1987, are adopted by reference.

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 May 25, 1988.

TRD-8805316

William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: July 1, 1988.

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

TITLE 34. PUBLIC FINANCE

Part II. State Treasury Department

Chapter 14. Hearing Procedure/Resolving Disputes

• 34 TAC §§14.1-14.6

The State Treasury Department proposes new §§14.1-14.6, concerning hearing procedures, dispute resolution and bid protest resolution. The purpose is to allow the State Treasury to more quickly and efficiently address the concerns of aggrieved bidders or prospective bidders.

John A. Bell, director of cash flow forecasting, 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. Bell 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 more efficient means to address concerns of aggrieved or prospective bidders. 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 Anne L. Schwartz, General Counsel, Texas State Treasury Department, P.O. Box 12608, Austin, Texas 78711.

The new sections are proposed under the Texas Constitution, Article IV, §1, which provides the State Treasury with the authority to adopt regulations necessary for the administration and enforcement of the duties of the State Treasury.

§14.1. Intent and Scope of Rules. The rules of practice and procedure are intended to provide a uniform and understandable process by which disagreements with certain official actions of the Treasurer of the State of Texas are pursued, and to provide for the fair and just disposition of these disagreements. These sections do not apply to grievances filed with the division of personnel, or disputes regarding the unclaimed property division of the Texas State Treasury Department.

§14.2. Representation and Participation. In a dispute resolution, a person may represent himself at any stage of proceedings, or may be represented by an authorized representative such as an attorney. Proceedings are not open to the public. Any person desiring to observe or participate at any stage of proceedings who is not a party, not employed by a party, or not called as a witness must obtain the permission of the general counsel of the agency and the agreement of all parties.

§14.3. Preliminary Conference. If both the office of the general counsel and the person asserting a dispute agree that a preliminary conference would be beneficial, a conference will be scheduled by the Office of General Counsel at a time convenient for both parties. This will be an informal conference, the purposes of which will be to try to resolve the controversy or to narrow disagreements as to facts and define legal issues involved.

§14.4. Initiation of a Hearing. If a controversy is not resolved at the preliminary conference, the person should request in writing, addressed to the Office of General Counsel, a hearing within two calendar days after the preliminary conference. In the event a preliminary conference is not requested or held, the person may request for a hearing in writing, addressed to the Office of General Counsel. The Office of General Counsel shall schedule a hearing within 15 days of receipt of such notice.

§14.5. Office of General Counsel/Conduct of Hearing.

(a) The Office of General Counsel, upon receipt of written request for a hearing, shall schedule said hearing within 15 days of receipt of such notice.

(b) Hearings will be conducted by the Office of General Counsel who has the authority to examine witnesses, to rule on motions, and to control the record and to propose decisions to the deputy treasurer of the State Treasury.

(c) The hearing will be convened by the general counsel or a designated representative from the Office of General Counsel. Each party will have the opportunity to present their case, examine witnesses, and to cross-examine opposing witnesses on any matter relevant to the issues. The general counsel or the designated representative may question any party or any witness.

(d) The rules of evidence set forth in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, apply in all contested cases subject to these hearing proceedings.

(e) The general counsel or the designated representative is responsible for developing and closing the record.

(f) All hearings heard by the general counsel or the designated representative will be tape recorded. A copy of the recording will be furnished to any party to the proceeding upon written request to the Office of General Counsel and payment of a reasonable fee established by the agency.

(g) The proposed decision of the general counsel or the designated representative must be approved by the deputy treasurer before it is given effect. The written decision will be sent to the complaining party and any authorized representative within 15 calendar days from the date issued.

§14.6. Bid Protest Resolution.

(a) Where the controversy involves the awarding of a contract pursuant to the agency's delegated purchase authority as that term is defined State Purchasing and General Services Commission, the party must follow the procedures established herein for first a preliminary conference and then; if still unresolved, a hearing.

(b) In the event a contract dispute is not settled at either the agency's preliminary conference or hearing, the party may thereafter appeal to State Purchasing and General Services Commission.

(c) All appeals to State Purchasing and General Services Commission are subject to and governed by the rules of that agency.

(d) In the event a controversy is not resolved at the agency's preliminary conference or hearing or in the case of an appeal to the State Purchasing and General Services Commission, the party appealing may be considered to have exhausted all administrative remedies available and may cite this section for that purpose.

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

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

Issued in Austin, Texas, on May 23, 1988.

TRD-8805288

Anne L. Schwartz
General Counsel
State Treasury Department

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-5971

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 69. Contract Services

Subchapter L. Contract Administration

• 40 TAC §69.227

The Texas Department of Human Services (DHS) proposes an amendment to §69.227, concerning screening requirements, in its Contracted Services rule chapter. The amendment requires that before corporations enter into a contract with DHS they must certify that they do not owe delinquent franchise taxes to the state of Texas. The amendment also states that a contract may be cancelled based on false certification. The amendment is proposed to comply with the provisions of House Bill 175, 70th Legislature, 1987.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard 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 increased efficiency in determining whether corporate contractors are in compliance with Texas franchise tax laws. Also, corporations will be encouraged to pay and maintain the payment of their corporate franchise taxes. 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 Cathy Rossberg, Administrator, Policy Development Support Division-318, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§69.227. Screening.

(a) An offeror must meet all screening requirements in the solicitation; otherwise, the offer is eliminated from further

consideration.

(b) Before a corporation's offer or contract renewal can be considered, the corporation must give the department franchise tax certification. For profit corporations subject to Texas' franchise tax must provide certification that their payments are current. All other corporations must certify that they are not subject to the franchise tax. Making a false certification is a material breach of contract and, at the department's option, grounds for contract termination.

(c)[b] The department must notify, in a timely fashion and in writing, each offeror whose offer does not meet screening requirements. The written notice specifies why the offer has been eliminated from further consideration. The notice also includes a statement of willingness to provide a debriefing.

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 May 25, 1988.

TRD-8805325

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption: August 1, 1988.

For further information, please call: (512) 463-3765

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Chapter 72. Memoranda of
Understanding with Other
State Agencies

Memoranda of Understanding
for Coordination of APS
Investigations

• 40 TAC §§72.501-72.507

The Texas Department of Human Services (TDHS) proposes new §§72.501-72.507 concerning coordination of APS investigations, in its memoranda of understanding with other state agencies chapter. Legislation passed by the 70th Legislature, 1987, requires the adoption by rule of a memorandum of understanding regarding responsibilities of agencies for investigations of abuse in facilities operated, licensed, certified, or registered by state agencies. This proposal includes memoranda of understanding between TDHS and the following agencies: the Texas Department on Aging, the Texas Commission on Alcohol and Drug Abuse, the Texas School for the Deaf, the Texas School for the Blind, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, and the Texas Commission for the Blind.

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 no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

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 greater protection for elderly or disabled adults who are found in facility-based settings and who may be victims of abuse or neglect. This will be accomplished by increased coordination and cooperation among state agencies with responsibilities for these persons. 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-314, 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.

§72.501. *Memorandum of Understanding with the Texas Department on Aging.* The Texas Department of Human Services, hereinafter called TDHS, and the Texas Department on Aging, hereinafter called TDOA, in accordance with the requirements of Chapter 48, Human Resources Code, agree to the following.

(1) TDOA agrees to:

(A) receive reports of abuse, neglect, or exploitation of elderly or disabled adults in board and lodging facilities registered with TDOA;

(B) refer reports to TDHS for investigation and protective services; and

(C) provide TDHS with lists of registered board and lodging facilities on a quarterly basis, or as frequently as updated.

(2) TDHS agrees to:

(A) receive referrals of reports of abuse, neglect, or exploitation of elderly or disabled adults in board and lodging facilities registered with TDOA;

(B) investigate reports received from TDOA;

(C) offer protective services to residents of facilities registered with TDOA when abuse, neglect, or exploitation is validated; and

(D) provide TDOA staff access to investigation reports involving fac-

ilities registered with TDOA.

(3) The parties mutually agree to review and update this memorandum of understanding on or before August 31 of each fiscal year.

§72.502. *Memorandum of Understanding with the Texas Commission on Alcohol and Drug Abuse.* The Texas Department of Human Services, hereinafter called TDHS, and the Texas Commission on Alcohol and Drug Abuse, hereinafter called TCADA, in accordance with the requirements of Chapter 48, Human Resources Code, agree to the following.

(1) TCADA agrees to:

(A) receive reports of abuse, neglect, or exploitation of elderly or disabled adults located in all facilities licensed by TCADA;

(B) notify TDHS of all such reports involving facilities licensed by TCADA, unless the report was referred to TCADA by TDHS;

(C) adopt rules related to the investigation and resolution of reports of abuse, neglect, or exploitation of adults located in all facilities licensed by TCADA, in accordance with Chapter 48, Human Resources Code. Rules shall provide for the prompt and thorough investigation of all reports, with initiation of the investigation to be within 24 hours of receipt of the report. Prior to adoption of the rules, TCADA will furnish a copy of the proposed investigation rules to TDHS for review and approval, to assure appropriateness and uniformity among agencies;

(D) refer to TDHS for review all complaints it receives about investigations conducted in facilities licensed by TCADA; and

(E) keep on file copies of reports received and investigations conducted, which will be made available to TDHS for reporting purposes.

(2) TDHS agrees to:

(A) refer to TCADA all reports it receives relating to abuse, neglect, or exploitation of a person in a facility licensed by TCADA; and

(B) conduct an investigation, if necessary, when a complaint is made about an investigation conducted by TCADA and report findings and recommendations to the Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse.

(3) The parties mutually agree to review and update this memorandum of

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 more efficient means to address concerns of aggrieved or prospective bidders. 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 Anne L. Schwartz, General Counsel, Texas State Treasury Department, P.O. Box 12608, Austin, Texas 78711.

The new sections are proposed under the Texas Constitution, Article IV, §1, which provides the State Treasury with the authority to adopt regulations necessary for the administration and enforcement of the duties of the State Treasury.

§14.1. Intent and Scope of Rules. The rules of practice and procedure are intended to provide a uniform and understandable process by which disagreements with certain official actions of the Treasurer of the State of Texas are pursued, and to provide for the fair and just disposition of these disagreements. These sections do not apply to grievances filed with the division of personnel, or disputes regarding the unclaimed property division of the Texas State Treasury Department.

§14.2. Representation and Participation. In a dispute resolution, a person may represent himself at any stage of proceedings, or may be represented by an authorized representative such as an attorney. Proceedings are not open to the public. Any person desiring to observe or participate at any stage of proceedings who is not a party, not employed by a party, or not called as a witness must obtain the permission of the general counsel of the agency and the agreement of all parties.

§14.3. Preliminary Conference. If both the office of the general counsel and the person asserting a dispute agree that a preliminary conference would be beneficial, a conference will be scheduled by the Office of General Counsel at a time convenient for both parties. This will be an informal conference, the purposes of which will be to try to resolve the controversy or to narrow disagreements as to facts and define legal issues involved.

§14.4. Initiation of a Hearing. If a controversy is not resolved at the preliminary conference, the person should request in writing, addressed to the Office of General Counsel, a hearing within two calendar days after the preliminary conference. In the event a preliminary conference is not requested or held, the person may request for a hearing in writing, addressed to the Office of General Counsel. The Office of General Counsel shall schedule a hearing within 15 days of receipt of such notice.

§14.5. Office of General Counsel/Conduct of Hearing.

(a) The Office of General Counsel, upon receipt of written request for a hearing, shall schedule said hearing within 15 days of receipt of such notice.

(b) Hearings will be conducted by the Office of General Counsel who has the authority to examine witnesses, to rule on motions, and to control the record and to propose decisions to the deputy treasurer of the State Treasury.

(c) The hearing will be convened by the general counsel or a designated representative from the Office of General Counsel. Each party will have the opportunity to present their case, examine witnesses, and to cross-examine opposing witnesses on any matter relevant to the issues. The general counsel or the designated representative may question any party or any witness.

(d) The rules of evidence set forth in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, apply in all contested cases subject to these hearing proceedings.

(e) The general counsel or the designated representative is responsible for developing and closing the record.

(f) All hearings heard by the general counsel or the designated representative will be tape recorded. A copy of the recording will be furnished to any party to the proceeding upon written request to the Office of General Counsel and payment of a reasonable fee established by the agency.

(g) The proposed decision of the general counsel or the designated representative must be approved by the deputy treasurer before it is given effect. The written decision will be sent to the complaining party and any authorized representative within 15 calendar days from the date issued.

§14.6. Bid Protest Resolution.

(a) Where the controversy involves the awarding of a contract pursuant to the agency's delegated purchase authority as that term is defined State Purchasing and General Services Commission, the party must follow the procedures established herein for first a preliminary conference and then; if still unresolved, a hearing.

(b) In the event a contract dispute is not settled at either the agency's preliminary conference or hearing, the party may thereafter appeal to State Purchasing and General Services Commission.

(c) All appeals to State Purchasing and General Services Commission are subject to and governed by the rules of that agency.

(d) In the event a controversy is not resolved at the agency's preliminary conference or hearing or in the case of an appeal to the State Purchasing and General Services Commission, the party appealing may be considered to have exhausted all administrative remedies available and may cite this section for that purpose.

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

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

Issued in Austin, Texas, on May 23, 1988.

TRD-8805288

Anne L. Schwartz
General Counsel
State Treasury Department

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 463-5971

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 69. Contract Services

Subchapter L. Contract Administration

• 40 TAC §69.227

The Texas Department of Human Services (DHS) proposes an amendment to §69.227, concerning screening requirements, in its Contracted Services rule chapter. The amendment requires that before corporations enter into a contract with DHS they must certify that they do not owe delinquent franchise taxes to the state of Texas. The amendment also states that a contract may be cancelled based on false certification. The amendment is proposed to comply with the provisions of House Bill 175, 70th Legislature, 1987.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard 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 increased efficiency in determining whether corporate contractors are in compliance with Texas franchise tax laws. Also, corporations will be encouraged to pay and maintain the payment of their corporate franchise taxes. 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 Cathy Rossberg, Administrator, Policy Development Support Division-318, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§69.227. Screening.

(a) An offeror must meet all screening requirements in the solicitation; otherwise, the offer is eliminated from further

understanding on or before August 31 of each fiscal year.

§75.503. *Memorandum of Understanding with the Texas School for the Deaf.* The Texas Department of Human Services, hereinafter called TDHS, and the Texas School for the Deaf, hereinafter called TSD, in accordance with the requirements of the Chapter 48, Human Resources Code, agree to the procedures involving reports of abuse and neglect of TSD students age 18 and older.

(1) TSD agrees to:

(A) receive reports of abuse, neglect, or exploitation of students enrolled at TSD;

(B) notify TDHS of all such reports involving students age 18 and older enrolled at TSD unless the report was referred to TSD by TDHS;

(C) adopt rules related to the investigation and resolution of reports of abuse, neglect, or exploitation of students located at TSD, in accordance with Chapter 48, Human Resources Code and Chapter 34 of the Family Code. Rules shall provide for the prompt and thorough investigation of all reports involving students age 18 years and older, with initiation of the investigation to be within 24 hours of receipt of the report. Prior to the adoption of the rules, TSD will furnish a copy of the proposed investigation rules to TDHS for review and approval to assure appropriateness and uniformity among agencies;

(D) refer to TDHS for review all complaints it receives about investigations conducted at TSD;

(E) keep on file copies of reports received and investigations conducted, which will be made available to TDHS for reporting purposes; and

(F) provide TDHS a copy of the investigation reports involving TSD students age 18 and older.

(2) TDHS agrees to:

(A) refer to TSD all reports it receives relating to abuse, neglect, or exploitation of students enrolled at TSD; and

(B) conduct an investigation, if necessary, when a complaint is made about an investigation conducted by TSD and report findings and recommendations to the Executive Director and Board President.

(3) The parties mutually agree to review and update this memorandum of understanding on or before August 31 of

each fiscal year.

§72.504. *Memorandum of Understanding with the Texas School for the Blind.* The Texas Department of Human Services, hereinafter called TDHS, and the Texas School for the Blind, hereinafter called TSB, in accordance with the requirements of Chapter 48, Human Resources Code, agree to the following.

(1) TSB agrees to:

(A) receive reports of abuse, neglect, or exploitation of elderly or disabled adults located in TSB;

(B) notify TDHS of all such reports involving facilities located in TSB unless the report was referred to TSB by TDHS;

(C) adopt rules related to the investigation and resolution of reports of abuse, neglect, or exploitation of adults located in TSB, in accordance with Chapter 48, Human Resources Code. Rules shall provide for the prompt and thorough investigation of all reports, with initiation of the investigation to be within 24 hours of receipt of the report. Prior to adoption of the rules, TSB will furnish a copy of the proposed investigation rules to TDHS for review and approval to assure appropriateness and uniformity among agencies;

(D) refer to TDHS for review all complaints it receives about investigations conducted in TSB;

(E) keep on file copies of reports received and investigations conducted, which will be made available to TDHS for reporting purposes; and

(F) provide TDHS a copy of the investigation report involving TSB.

(2) TDHS agrees to:

(A) refer to TSB all reports it receives relating to abuse, neglect, or exploitation of a person in TSB; and

(B) conduct an investigation if necessary when a complaint is made about an investigation conducted by TSB and report findings and recommendations to the Board of Directors of TSB with a copy to the executive director of TSB.

(3) The parties mutually agree to review and update this memorandum of understanding on or before August 31 of each fiscal year.

§72.505. *Memorandum of Understanding with the Texas Department of Mental Health and Mental Retardation.* The Texas Department of Human Services,

hereinafter called TDHS, and the Texas Department of Mental Health and Mental Retardation, hereinafter called TDMHMR, in accordance with the requirements of Chapter 48, Human Resources Code, agree to the following.

(1) TDMHMR agrees to:

(A) receive reports of abuse, neglect, or exploitation of elderly or disabled adults located in all facilities operated, licensed, certified, registered, or regulated by TDMHMR;

(B) notify TDHS of all such reports involving facilities operated by TDMHMR, unless the report was referred to TDMHMR by TDHS;

(C) adopt rules related to the investigation and resolution of reports of abuse, neglect or exploitation of adults located in all facilities operated, licensed, certified, registered, or regulated by TDMHMR in accordance with Chapter 48, Human Resources Code, and other applicable statutes. Rules shall provide for the prompt and thorough investigation of all reports, with initiation of the investigation to be within 24 hours of receipt of the report. Prior to adoption of the rules, TDMHMR will furnish a copy of the proposed investigation rules to TDHS for review and approval, to assure appropriateness and uniformity among agencies;

(D) provide TDHS a copy of the investigation report involving facilities operated, licensed, certified, registered, or regulated by TDMHMR;

(E) assist TDHS in additional investigation activities if TDHS determines that the TDMHMR investigation was not conducted in accordance with Chapter 48, Human Resources Code;

(F) refer to TDHS for review all complaints it receives about investigations conducted in facilities operated, licensed, certified, registered, or regulated by TDMHMR; and

(G) keep on file copies of reports received and investigations conducted, in facilities operated, licensed, certified, registered, or regulated by TDMHMR, which will be made available to TDHS for reporting purposes.

(2) TDHS agrees to:

(A) refer to TDMHMR all reports it receives relating to abuse, neglect, or exploitation of a person in a facility operated, licensed, certified, registered, or regulated by TDMHMR;

(B) review all reports of TDMHMR investigations of abuse, neglect, or exploitation in a facility operated, licensed, certified, registered, or regulated by TDMHMR. TDHS will conduct additional investigation activities, assisted by TDMHMR, if TDHS determines that the initial investigation did not meet the requirements of Chapter 48, Human Resources Code; and

(C) conduct an investigation, if necessary, when a complaint is made about an investigation conducted by TDMHMR and report findings and recommendations to the TDMHMR board.

(3) The parties mutually agree to review and update this memorandum of understanding on or before August 31 of each fiscal year.

§72.506. Memorandum of Understanding with the Texas Department of Health. The Texas Department of Health, hereinafter called TDH, in accordance with the requirements of Chapter 48, Human Resources Code, agree to the following.

(1) TDH agrees to:

(A) receive reports of abuse, neglect or exploitation of elderly or disabled adults located in all facilities licensed or certified by TDH;

(B) adopt rules related to the investigation and resolution of reports of abuse, neglect, or exploitation of adults located in facilities licensed or certified by TDH, in accordance with Chapter 48, Human Resources Code. Rules shall provide for the prompt and thorough investigation of all reports, with the initiation of the investigation to be within 24 hours of receipt of a report of suspected need for protective services to determine whether the elderly or disabled person is in need of such services. Prior to adoption of the rules, TDH will furnish a copy of the proposed investigation rules to TDHS for review and approval, to assure appropriateness and uniformity among agencies;

(C) refer to TDHS for review all complaints it receives about investigations conducted in facilities licensed or certified by TDH;

(D) keep on file copies of reports received and investigations conducted, which will be made available to TDHS for reporting purposes;

(E) delegate the responsibility of receiving and investigating reports of abuse, neglect, and exploitation of elderly or disabled persons who reside in facilities specified in the foregoing memorandum

when the act is reported to have occurred outside such facilities and the perpetrator is not affiliated with the facility and the facility was not responsible for supervision at the time the act occurred; and

(F) continue to receive and investigate reports of abuse, neglect, or exploitation of elderly or disabled persons when the act occurs in said facilities; when such facilities are responsible for supervision at the time the act occurs, or when the perpetrator is affiliated with the facility.

(2) TDHS agrees to:

(A) refer to TDH all reports it receives relating to abuse, neglect, or exploitation of a person in a facility licensed or certified by TDH;

(B) conduct an investigation, if necessary, when a complaint is made about an investigation conducted by TDH and report findings and recommendations to the Texas Board of Health; and

(C) receive and investigate reports specified in paragraph (1)(E) of this subsection.

(3) The parties mutually agree to review and update this memorandum of understanding on or before August 31 of each fiscal year.

§72.507. Memorandum of Understanding with the Texas Commission for the Blind. The Texas Department of Human Services, hereinafter called TDHS, and the Texas Commission for the Blind, hereinafter called TCB, in accordance with the requirements of Chapter 48, Human Resources Code, agree to the following.

(1) TCB agrees to:

(A) receive reports of abuse, neglect, or exploitation of elderly or disabled adults located in Criss Cole Rehabilitation Center;

(B) notify TDHS of all such reports involving Criss Cole Rehabilitation Center, unless the report was referred to TCB by TDHS;

(C) adopt rules related to the investigation and resolution of reports of abuse, neglect, or exploitation of adults located in Criss Cole Rehabilitation Center, in accordance with Chapter 48, Human Resources Code. Rules shall provide for the prompt and thorough investigation of all reports, with initiation of the investigation to be within 24 hours of receipt of the report. Prior to adoption of the rules, TCB will furnish a copy of the proposed investigation rules to TDHS for review and approval, to assure appropriateness and uniformity among agencies;

(D) refer to TDHS for review all complaints it receives about investigations conducted in Criss Cole Rehabilitation Center;

(E) provide TDHS a copy of the investigation report involving Criss Cole Rehabilitation Center;

(F) assist TDHS in additional investigation activities if TDHS determines that the TCB investigation was not conducted in accordance with Chapter 48, Human Resources Code; and

(G) keep on file copies of reports received and investigations conducted, which will be made available to TDHS for reporting purposes.

(2) TDHS agrees to:

(A) refer to TCB all reports it receives relating to abuse, neglect or exploitation of a person in Criss Cole Rehabilitation Center; and

(B) conduct an investigation, if necessary, when a complaint is made about an investigation conducted by TCB and report findings and recommendations to the Board of Directors of TCB.

(3) The parties mutually agree to review and update this memorandum of understanding on or before August 31 of each fiscal year.

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 May 25, 1988.

TRD-8805327

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption: August 1, 1988.

For further information, please call: (512) 463-3765

Chapter 79. Legal Services

Subchapter V. Fraud or Abuse Involving Medical Providers

• 40 TAC §79.2111, §79.2114

The Texas Department of Human Services (DHS) proposes amendments to §79.2111, concerning definitions, and §79.2114, concerning imposing a sanction, in its Legal Services rule chapter. In §79.2111, DHS proposes to delete the definition of provider review council. In §79.2114, DHS proposes to amend subsection (a) and delete subsection (b). The purpose of these changes is to allow the agency's deputy commissioners to make

decisions about fraud referrals.

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 no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

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 more timely referrals of fraud cases to the Attorney General's office. 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-333, 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.

§79.2111. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

[Provider review council—A group consisting of representatives appointed by the commissioner of the department. The council is responsible for recommending certain administrative sanctions against providers involved in fraud or abuse or for referring providers to the Attorney General's Medicaid Fraud Control Unit for fraud investigation and possible prosecution.]

§79.2114. Imposing a Sanction.

[(a)] The decision to impose a sanction or make a fraud referral is at the discretion of the deputy commissioner or designee responsible for the program area affected by the violation. In determining the sanction to be imposed, consideration may be given to the seriousness of the program violation, the extent of the violation, prior imposition of sanctions, willingness to comply with the program rules, recommendations of peer review groups, or any other pertinent information.

[(b)] Except when an action by the federal government would preclude federal financial participation (FFP) or an emergency situation requires immediate action and is authorized by the commissioner or his designee, all recommendations for provider exclusion and fraud referrals are presented to the Provider Review Council (PRC) for consideration.]

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 May 25, 1988.

TRD-8805326

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption: August 1, 1988.

For further information, please call: (512) 463-3765

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part IX. Texas Department on Aging

Chapter 268. Adequate Proportion of Priority Services

Statutes and Regulations

- 40 TAC §§268.1, 268.3, 268.5, 268.7, 268.9, 268.11, 268.13

The Texas Department on Aging proposes new §§268.1, 268.3, 268.5, 268.7, 268.9, 268.11, and 268.13, concerning budgeting and expenditure of Older Americans Act, Title IIIB funds to assure the provisioning of an adequate proportion of priority services to the elderly in each of the planning and service areas of the state as required by the latest amendments to the Older Americans Act.

Charles Hubbard, fiscal officer, Texas Department on Aging, 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.

Alex Guerra, director of programs, Texas Department on Aging 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 greater benefit to the elderly of the state as a result of the provisioning of services which either promote participation in other services authorized under the Older Americans Act, or which enhance the ability of the elderly to maintain their independence and avoid premature institutionalization. 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 Edwin R. Floyd, Program Liaison, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The new sections are proposed under Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§268.1. Adequate Proportion of Priority Services. Area agencies on aging are required to expend an adequate proportion of their Title III-B allotment for priority services.

§268.3. Priority Services. Priority services

authorized under Title III of the Older Americans Act consist of access services, in-home services, and legal assistance services. Each of these services are composed of separate components as follows.

(1) Access services. Transportation, outreach, information and referral, and beginning in fiscal year 1990, case management.

(2) In-home services. Home-maker and home health aides, visiting and telephone reassurance, chore maintenance, in-home respite care for families including adult day care as a respite service for families, and minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home that is not available under other programs.

(3) Legal assistance. Legal assistance services and benefits counseling. **§268.5. Adequate Proportion.** As required by the Older Americans Act, Title III, a separate allocation for each of the categories of services cited in §268.3 of this title (relating to Priority Services) will be applied to the total funding available for Title IIIB services. In keeping with the legislative intent to target services to special populations, including frail, low income, and minority elderly persons, the minimum percentages established for these service categories will be implemented over the next two years and will be reviewed for possible revision for fiscal year 1991. The amount allocated by the area agency on aging for each of these categories will be calculated as a percentage of the Title III allotment. The minimum percentages are established as follows:

(1) For Fiscal Year 1989:

(A) 25% for access services;

(B) 10% for in-home services; and,

(C) 2% for legal assistance.

(2) For Fiscal Year 1990:

(A) 30% for access services;

(B) 15% for in-home services; and

(C) 2% for legal assistance.

§268.7. Waiver of the Requirement to provide an Adequate Proportion of Funding for Priority Services.

(a) Waivers. The Texas Department on Aging may grant a waiver to §268.5 of this title (relating to Adequate Proportion) for any category of services described in §268.3 of this title (relating to Priority Services) if the area agency on aging documents that the services for each category are being furnished and are sufficient to

meet the need for such services in the area.

(b) Procedure for requesting a waiver. Waiver requests must be submitted annually with the area plan or the area plan amendment. To support the request, the area agency on aging must submit the following information and documentation for each category of service for which a waiver is desired:

(1) a description of the needs assessment process used by the area agency on aging to determine the unmet service needs of the elderly in the region and a description of the service needs that were identified through the needs assessment;

(2) a list of the service providers in the region who are providing priority services from all community resources, indicating the following:

(A) service/s being provided by each service provider;

(B) the eligibility criteria for the service;

(C) the level and source of funding;

(D) the level of service (number of units of service and the unduplicated number of elderly receiving service) for the current fiscal year; and

(E) the level of service (number of units of service and the unduplicated number of elderly receiving service) projected to be served during the fiscal year for which the waiver is being requested;

(3) a description of the area agency's request for proposal process, including, but not limited to:

(A) methods to notify possible proposers, such as legal notices, direct mailings, and newspaper advertisements;

(B) review procedures for the proposals submitted to the area agency on aging;

(C) contents of the request for proposal, including service delivery expectations and funding levels; and

(D) procedures for providing technical assistance to the proposers.

(4) documentation of the public hearing/s including, but not limited to, the following:

(A) public announcement of the public hearing/s;

(B) specific notification sent to all interested parties;

(C) list of the interested parties sent the notification;

(D) record of the proceedings of the public hearing/s; and

(E) attendance roster from the public hearing/s.

(c) Review of waiver requests. The department will review all requests for waiver based on the following:

(1) responsiveness by the area agency in the submission of all the required information and documentation;

(2) documentation of needs assessment findings which resulted in the decision to request a waiver which will include the following:

(A) needs assessment methodology, which may include sampling methodology, data gathering methodology, and statistical methodology for review of the data;

(B) source of data, including any secondary sources; and

(C) summary of statistical data indicating needs, which may include age, impairment levels, income, educational attainment, and other variables;

(3) documentation of the adequacy of the service delivery system in the area to meet the need for the service including:

(A) documented level of need for this service;

(B) service level being provided by area service providers including units of service, unduplicated number of persons being served, and level of funding; and

(C) documented unmet need for this service;

(4) documentation of efforts of the area agency to subcontract for services through a viable request for proposal process which includes the following:

(A) public notification of request for proposals;

(B) review by a citizens advisory group for the grantee which is free of conflict of interest;

(C) a request for proposal document which includes service delivery expectations and funding levels;

(D) procedures for providing technical assistance to the proposers which is equitable for all proposers; and

(5) documentation of the public hearing/s to include at least the information described in subsection (a)(4) of this section.

§268.9. Procedure for Granting a Waiver. If review of the documentation outlined in §268.7(a) (relating to waiver of the Requirement to Provide an Adequate Proportion of Funding for Priority Services) justifies a waiver, the department will publish a notice of intent to grant such a waiver, outlining the department's justification for the proposed action, in the miscellaneous documents section of the *Texas Register* at least 30 days prior to the effective date of the approval action. This notice will provide a 30 day comment period during which time an individual or a service provider from the area may request a hearing by the department on the pending waiver request. At the end of the 30 day comment period if no hearing has been requested, the department's decision to grant the waiver will become effective and the department will notify the area agency of the decision in writing within five working days.

§268.11. Hearings.

(a) If a hearing has been requested, the department will conduct the hearing according to the procedures listed in Chapter 257 of this title (relating to Hearing Procedures).

(b) Procedures for requesting a hearing.

(1) The interested person/s or service provider/s must submit to the department a written request for a hearing. A copy of the written request to the department must also be sent to the area agency at the same time the department is notified. The request must be received by the department by close of business on the thirtieth day following publication in the *Texas Register* of the notice to grant a waiver.

(2) Within five days of the receipt of the request for a hearing, the department will establish the day of the hearing and notify the complainant and the area agency on aging in writing of the day and time. The notification will be provided to the interested person/s or service provider/s at least 10 days prior to the hearing.

§268.13. Effective Date of Adequate Proportion Policy. The percentages for expenditure of an adequate proportion of Title III-B funding for priority services established in §268.5 of this title (relating to Adequate Proportion), the procedures for requesting a waiver established in §268.7 of this title (relating to waiver of the Require-

ment to Provide an Adequate Proportion of Funding for Priority Services), and the procedures for granting a waiver established in §268.9 of this title (relating to Procedures for Granting a Waiver), are effective with contracts signed after June 1, 1988. Contracts signed prior to that date will be subject to the area plans approved under the procedures in effect on or before June 1, 1987.

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 May 23, 1988.

TRD-8805279

O.P. (Bob) Bobbitt
Executive Director
Texas Department on
Aging

Earliest possible date of adoption: July 1, 1988

For further information, please call: (512) 444-2727





Name: Sarah Whitmire
Grade: 11
School: Marshall High, Marshall

Withdrawn Sections

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 15. Consumer Services Division

• 4 TAC §15.11

The Texas Department of Agriculture has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the May 17, 1988, issue of the *Texas Register* (13 TexReg 2287). The effective date of this withdrawal is May 25, 1988.

Issued in Austin, Texas, on May 25, 1988.

TRD-8805332 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Effective date: May 25, 1988

For further information, please call: (512) 463-7583

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Quality of Service

• 16 TAC §23.69

The Public Utility Commission of Texas has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the February 26, 1988, issue of the *Texas Register* (13 TexReg 950). The effective date of this withdrawal is May 24, 1988.

Issued in Austin, Texas, on May 24, 1988.

TRD-8805303 Phillip A. Holder
Secretary
Public Utility Commission
of Texas

Effective date: May 24, 1988

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

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 133. Pupil-School Relations

Subchapter B. Discipline Management

• 19 TAC §133.28

The Texas Education Agency has withdrawn the emergency effectiveness of amendment to §133.28, concerning discipline management. The text of the emergency amendment appeared in the March 25, 1988, issue of the *Texas Register* (13 TexReg 1416). The effective date of this withdrawal is June 13, 1988.

Issued in Austin, Texas on May 23, 1988.

TRD-8805221

Effective Date: May 23, 1988

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste in General

• 31 TAC §335.13

The Texas Water Commission has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the April, 1, 1988, issue of the *Texas Register* (13 TexReg 1524). The effective date of this withdrawal is May 25, 1988.

Issued in Austin, Texas, on May 25, 1988.

TRD-8805333

William G. Newchurch
Director, Legal Division
Texas Water Commission

Effective date: May 25, 1988

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 46. Residential Care Program

Provider Participation

• 40 TAC §46.2002

The Texas Department of Human Services (TDHS) has withdrawn from consideration for permanent adoption a proposed repeal of §46.2002 concerning prior approval of services. The text of the repeal appeared in the April 19, 1988, issue of the *Texas Register* (13 TexReg 1906).

Issued in Austin, Texas, on May 25, 1988.

TRD-8805322

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 25, 1988.

For further information, please call: (512) 463-3765

• 40 TAC §46.2009, §46.2010

The Texas Department of Human Services (TDHS) has withdrawn from consideration for permanent adoption proposed new §46.2009 and §46.2010, concerning critical omissions/errors and renewal of prior approval. The text of the new sections appeared in the April 19, 1988, issue of the *Texas Register* (13 TexReg 1906).

Issued in Austin, Texas, on May 25, 1988.

TRD-8805324

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 25, 1988.

For further information, please call: (512) 463-3765

Chapter 48. Community Care
for Aged and Disabled

Eligibility

• 40 TAC §48.2930

The Texas Department of Human Services (TDHS) has withdrawn from consideration for permanent adoption a proposed amendment to §48.2930, concerning residential health care. The text of the amendment appeared in the April 19, 1988, issue of the *Texas Register* (13 TexReg 1907).

Issued in Austin, Texas, on May 25, 1988.

TRD-8805321

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 25, 1988.

For further information, please call: (512)
463-3765



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 19. EDUCATION

Part II. Texas Education Agency

Chapter 81. Instructional Resources

Subchapter D. State Textbook Program

State Adoption, Acquisition, and Custody of Textbooks

19 TAC §81.120, §81.128

The Texas Education Agency adopts amendments to §81.120 with changes to the proposed text as published in the March 4, 1988, issue of the *Texas Register* (13 TexReg 1129). In §81.120, the requirement in subsection (e) that all samples be classroom ready has been replaced with a new subsection (f) which requires that publishers provide three copies of textbook samples with hand-corrected changes for editorial changes made by the publisher. Section 81.128 is adopted without changes to proposed text as published in the March 4, 1988, issue of the *Texas Register* (13 TexReg 1229) and will not be republished.

The amendments were adopted to reduce the number of changes and corrections necessary in adopted textbooks and to broaden options available to the board in imposing penalties on publishers in cases of procedural irregularities, failure to meet deadlines, or other violations of statutes or rules. Under the amended sections, for each official sample filed, the publisher shall provide three copies with hand-corrected changes showing those editorial changes requested by the publisher. A list of all requested changes shall also be provided. In response to violations of the rules or statutes, including but not limited to failure to meet deadlines, the board may take such action as it deems appropriate, including removing publishers from the process, requiring publishers to reduce prices, or imposing any other penalty deemed appropriate for the specific violations.

Comments on the proposal were received from the Association of American Publishers expressing concern that the imposition of a price reduction as a penalty could trigger most favored nation clauses in contracts with other states and requesting this motion be deleted from §81.128. The agency's response is that the section allows a variety of penalties, of which reduction in book price only one option, and that this option would be used only in instances deemed appropriate by the board. No penalties of any type would be invoked unless there were violations of statutes or rules, procedural irregularities, or

failures to meet deadlines.

Several individual publishers expressed concern about the proposed requirement that all samples be classroom ready, and noted the costs and hardships involved in requiring that material be carefully proofread before it is printed. In response, the agency changed the rule to require hand-corrected samples.

The amendments are adopted under the Texas Education Code, §12.16, which authorizes the State Board of Education to make rules for the selection, adoption, and use of textbooks for the public schools of the state. §81.120. *Samples*.

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

(e) All samples submitted shall be printed in finished format.

(f) For each official sample filed with the Texas Education Agency, the publisher shall provide, on a date specified in the schedule for the textbook adoption process, three copies of textbook samples with hand-corrected changes for editorial changes requested to be made by the publisher. One of the copies shall replace and be marked the "official sample." A list of all requested changes shall be provided to the agency in the format designated by the commissioner of education.

(g) The commissioner of education, after hearing and for cause, may extend the deadlines for filing of samples in regional education service centers as required by this section for one or more publishers. If such an extension is granted, the commissioner shall be authorized to adjust other deadlines in the schedule for the adoption process to ensure adequate time for public review of the books in question. The commissioner shall notify the State Board of Education of all such adjustments at the next meeting of the board. At its discretion the board may remove from consideration any textbook or other materials proposed for adoption which were not properly on deposit in the regional education service centers.

(h) After textbooks have been adopted and all negotiated changes and corrections have been made, two corrected copies of all student textbooks, teacher's editions or manuals, learning systems, and supplementary instructional materials, and supplementary materials to be furnished without cost shall be submitted to the commissioner of education for final approval prior to purchase. Such copies shall be in all respects like the texts which will be provided to local school districts after pur-

chase.

(i) Special provisions concerning samples of learning systems and supplementary instructional materials are found in §81.121 of this title (relating to Special Provisions Concerning Samples of Learning Systems and Supplementary Instruction Materials.)

(j) The State Board of Education may remove from consideration by the State Textbook Committee any textbooks or other materials for which samples have not been provided in accordance with this section and with the schedule for the textbook adoption process.

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 May 17, 1988.

TRD-8805224

W.N. Kirby

Commissioner of Education

Effective date: June 13, 1988

Proposal publication date: March 4, 1988

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

Chapter 121. Public School Finance-Personnel

The Texas Education Agency adopts amendments to §§121.11-121.16 and 121.32, with changes to the proposed text as published in the March 29, 1988, issue of the *Texas Register* (13 TexReg 1487). The amendments to §121.1 and §121.34 are adopted without changes and will not be republished. The amendments bring the sections into conformity with current statutes concerning the foundation school program. Amendments include deletion of references to foundation units, which are not used in the current funding system; deletion of the requirement to have a tuberculosis certificate on file for school district personnel, since this requirement in law was repealed by House Bill 1829, 70th Legislature; deletion of detailed instructions for completing the teacher service record; deletion of the requirement that a written acceptance of a contract be kept on file when evidence of a contract appears only in board minutes, since there is no specific legal justification for this requirement; and deletion of required forms to verify college or university experience. In §121.12(f), the last sentence has been changed to include the words "at the request of the employee" within the proposed text. In §121.32(f)(2), concerning years

of service for extended day migrant personnel, the words "and thereafter" were deleted. There are no other changes from the text as proposed.

Local school districts will keep personnel records and report personnel information in accordance with the Texas Education Code, Chapter 16 and the amended sections.

No comments were received regarding adoption of the amendments.

Subchapter A. General Provisions

• 19 TAC §121.1

The amendment is adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the foundation school program.

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 May 17, 1988.

TRD-8805222

W. N. Kirby
Commissioner of Education

Effective date: June 13, 1988

Proposal publication date: March 29, 1988

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



Subchapter B. Personnel Records

• 19 TAC §§121.11-121.16

The amendments are adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the foundation school program.

§121.12. *Credentials.*

(a) (No change.)

(b) Credentials for professional personnel. The credentials for professional personnel are as follows.

(1) For a professional employee

whose position requires certification, the credential must be in the form of a current valid Texas certificate, a special assignment permit, a renewable permit, a noncertified instructor's permit, or an emergency teaching permit.

(2)-(4) (No change.)

(c)-(e) (No change.)

(f) Filing of emergency and special assignment permits. An emergency teaching or special assignment permit is activated by the school district. A copy of the permit shall be furnished the employee upon termination of employment, at the request of the employee, for presentation to subsequent employing school districts.

(g) Effective date of certificate. A teaching certificate shall be considered to be effective from the first day of the month in which it was issued. An affidavit similar to the following from a college or university will be accepted by the Central Education Agency as evidence of certification. This affidavit must be signed by an authorized official of the college or university.

This is to certify that _____ (Name) _____ has completed all requirements for _____ (Type of Certificate) _____ and was recommended to the Central Education Agency for issuance of this certificate on _____ (Date) _____.

(h) Effective date of emergency teaching permit. Emergency teaching permits shall be valid for employment from the issue date to the expiration date shown on the permit. Employment prior to and subsequent to the dates shown on the face of the permit is not authorized. If a teacher who is covered only by an emergency permit receives a certificate during the school year, the effective date of change for salary purposes shall be the first day of the month in which the certificate was issued.

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 May 17, 1988.

TRD-8805223 W. N. Kirby
Commissioner of Education

Effective date: June 13, 1988

Proposal publication date: March 29, 1988

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

Subchapter C. Years of Service for Salary Increment Purposes

• 19 TAC §121.32, §121.34

The amendments are adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the foundation school program.

§121.32. Minimum Employment Requirements for Creditable Service.

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

(f) Service for extended day migrant personnel. Extended day migrant program employment shall be calculated in accordance with this section and the resulting equivalent must meet the same minimum requirements for professional and paraprofessionals for the year in question.

(1) (No change.)

(2) For service during the 1970-1971 through the 1975-1976 school years, the days employed in the migrant program shall be multiplied by a factor of 1.31.

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 May 17, 1988.

TRD-8805219 W. N. Kirby
Commissioner of Education

Effective date: June 13, 1988

Proposal publication date: March 29, 1988

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

Chapter 133. Pupil-School Relations

Subchapter B. Discipline Management

• 19 TAC §133.28

Texas Education Agency adopts amendments to §133.28 with changes to the proposed text as published in the March 25, 1988, issue of the *Texas Register* (13 TexReg 1418). The amendments concern the discipline of handicapped students. On January 20, 1988, the United States Supreme Court rendered a decision in a case involving the discipline of a handicapped student. The Supreme Court ruled that where an administrative action or court proceeding is pending, state and local school authorities may not unilaterally exclude disabled students from the classroom for dangerous or disruptive conduct growing out of their disabilities. *Honig v. Doe* invalidates the "dangerousness exception" previously in effect as a result of prior lower court decisions. The amendments bring the section on discipline of handicapped students into accord with the decision in *Honig v. Doe*.

Changes made were in response to public comment and are described in the summary of comments and responses.

Under the amended section, handicapped students may be suspended in the same manner as nonhandicapped students for a period not to exceed six school days or removed to an alternative education program for a period not to exceed 10 consecutive school days. Handicapped students may not be suspended for more than six days or removed to an alternative education program for more than 10 days unless the admission, review, and dismissal (ARD) committee first determines that the alleged behavior in question was not related to the handicapping condition. Provisions for emergency removal are also revised in accordance with the decision in *Honig v. Doe*.

Comments on the proposed section were received from the Texas Association of School Boards and from Advocacy, Incorporated. Both groups expressed a concern about the reference in (a)(6)(c) to "currently available evaluation and assessment data". This was clarified to read "currently effective" in the adopted section. The Texas Association of School Boards also requested clarification of the ARD committees' role in (a)(2)(B) and that a student returned to school under (a)(6)(c) must be returned to his or her current placement while additional assessments are being conducted unless the parents agree otherwise. These clarifications have been made in the adopted section. In (a)(2)(c) a publishing error should be corrected: The word "this" should be "the" in the phrase "the requirements."

The amendment is adopted under the Texas Education Code, §21.301, which authorizes the State Board of Education to make rules concerning student discipline, including suspension and removal of students to an alternative education program.

§133.28. Discipline of Handicapped Students. Disciplinary actions regarding

handicapped students shall be in accordance with §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and §133.27 of this title (relating to Expulsion) except as noted in this section.

(1) (No change.)

(2) Suspension or removal to an alternative education program.

(A) Handicapped students may be suspended in the same manner as nonhandicapped student a for a period not to exceed six school days or removed to an alternative education program for a period not to exceed 10 consecutive school days.

(B) Handicapped students may not be suspended for more than six days or removed to an alternative education program for more than 10 days unless the ARD committee first determines whether the alleged behavior in question was related to the handicapping condition. If the ARD committee determines there is a connection, they must also determine what action is appropriate.

(C) The term of a handicapped student's removal to an alternative education program shall be assessed in accordance with the requirements of the Texas Education Code, §21.301(d) and 34 Code of Federal Regulations §300.513 (relating to Child's Status During Proceedings). However, removal for more than 10 consecutive school days may be effected only through ARD committee action, subject to the parents' right to appeal.

(3) Emergency removal.

(A) Emergency removal of a handicapped student from a class or school for health, safety, or welfare reasons may only be done for compelling reasons as noted in §133.26(c) of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and shall not exceed five consecutive school days except as set out in subparagraphs (B) and (C) of this paragraph. Any student who is removed from school premises pursuant to this subsection and who is in a condition that threatens his own welfare or the welfare of others must be released to the student's parent, a representative of the parent, or other proper authority, including, but not limited to, law enforcement officers and medical personnel

(B) Removal under this section is intended to be used in emergency situations only and consecutive five school day removals are prohibited unless the ARD committee determines that the student poses an immediate threat to the safety of himself or herself or others or disrupts the

safety of the learning environment.

(C) If the ARD committee determines that a student is dangerous pursuant to subparagraph (B) of this paragraph, but the parents appeal the decision pursuant to the Education for the Handicapped Act procedures and refuse to permit a change of placement, the school must obtain immediate injunctive relief from a state or federal court in order to remove the student for more than 10 consecutive days.

(D) The district shall make reasonable efforts to notify the parent prior to removing a student from school premises under this subsection. If the parent cannot be notified prior to removal, the parent must be notified as soon as possible after the removal and the reasons for it.

(4) (No change.)

(5) Sanctions specified in students' IEP. The requirements of §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and paragraphs (2) and (3) of this subsection shall not apply to disciplinary sanctions implemented in accordance with specifications in the student's IEP. If the student's IEP contains disciplinary sanctions and is not being challenged in an administrative or court appeal, pursuant to the Education of the Handicapped Act, then those sanctions in the IEP should be followed rather than the requirements of §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and paragraphs (2) and (3) of this subsection.

(6) Expulsion of handicapped students.

(A) (No change.)

(B) The exclusion of a handicapped student from his or her current placement, pending appeal of an expulsion, may not exceed 10 days without ARD committee action (subject to the parents' rights to appeal under the Education for the Handicapped Act and the status quo provisions of 34 Code of Federal Regulations §300.513) to determine appropriate services in the interim.

(C) In determining whether a student's disruptive behavior was related to a student's handicapping condition, the ARD committee shall base its decision on currently effective evaluation and assessment data and on review of the current IEP documentation rather than on established eligibility or previous committee decisions. The committee shall consider whether the student's behavior indicates the need for new assessment or evaluation data. Unless the parents agree otherwise, the student must be returned to his or her current place-

ment after 10 days while additional assessments are being conducted.

(D) The ARD committee shall determine the instructional and related services to be provided during the time of expulsion. The student's IEP shall include goals and objectives designed to assist in returning the student to school and preventing significant regression.

(E) If the ARD committee determines that the student's disruptive behavior is related to the handicapping condition or inappropriate placement, the student shall not be expelled. If the disruptive behavior on the part of the student indicates an inappropriate placement, the ARD committee shall review the placement and recommend alternatives.

(F) If the ARD committee determines that the behavior was related to the handicapping condition, then the ARD committee shall:

(i) rewrite the IEP to address the behavioral and educational needs of the student; or

(ii) when appropriate, consider the extension of an emergency removal pursuant to paragraph (3)(B) of this subsection.

(7) Parent participation in ARD committee meetings. The provisions of §89 222(d) of this title (relating to Parent Participation in ARD Committee Meetings) and 34 Code of Federal Regulations §300.513 (relating to Child's Status During Proceedings) are applicable in circumstances arising under this section.

(8) (No change.)

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

Issued in Austin, Texas, on May 17, 1988.

TRD-8805220

W. N. Kirby
Commissioner of Education

Effective date: June 13, 1988

Proposal publication date: March 25, 1988

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

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Chapter 149. Education
Personnel Development

Subchapter D. Teacher Career
Ladder

• 19 TAC §149.71

The Texas Education Agency adopts an amendment to §149.71 with changes to the proposed text as published in the January 29, 1988, issue of the *Texas Register* (13 TexReg 572). The amendment concerns as-

signment to the teacher career ladder. The primary purpose of the amendment is to add a provision allowing the use of current school year performance evaluations for placing or maintaining teachers on advanced levels of the teacher career ladder if a teacher was not appraised in the prior year because the teacher was on a local district approved leave for temporary disability or professional development. Other amendments delete portions of the section that were only applicable during the first years of career ladder implementation.

Under the amended sections, current year appraisals will be used for teachers who were not appraised in the prior year because they were on a local district approved leave for temporary disability or professional development. Changes from the proposed text include deletions of paragraph (c)(1), which was permissive rather than regulatory, editorial changes in (c)(3)(A) and (B), and the substitution of the word "extenuating" for "extraordinary" in (c)(2)(A) and (B).

A public hearing on the amendment was held on May 3, 1988.

Comments on the proposed sections were received from the Texas State Teachers Association, the Association of Texas Professional Educators, the Texas Classroom Teachers Association, the Texas Federation of Teachers, the Texas Association of Suburban School Districts, the Texas Association of Community Schools, the Texas Association of School Administrators, the Texas Association of School Boards, the Texas Association of Secondary School Principals, the Texas Elementary Principals and Supervisors Association, the Texas Association of School Personnel Administrators, the Urban Council, as well as several individuals.

Some individuals request that "preceding year" be defined so that it clearly refers to school year, rather than previous year of service. Others requested that it be defined to refer to year of service, rather than school year. The Texas State Teachers Association supported the rule amendment, but expressed concern, as did several individuals, that it made no provision for maternity leave or for teachers temporarily assigned to non-teaching assignments such as appraisal or curriculum development. TSTA recommended further amendments to address these issues. The Association of Texas Professional Educators opposed the amendment and requested that qualified individuals be entitled to retain their career ladder placement, regardless of the duration of their absence, subject to validation by a current year evaluation of their performance.

The Texas Classroom Teachers Association supported the amendment and requested that it be expanded to cover all leaves legally available to teachers as well as locally approved leave of absence policies. The Texas Federation of Teachers supported the amendment, but urged that the provisions be expanded to cover all types of legislatively-sanctioned leave, including leave for recuperation from physical assaults and military leave.

The Texas Association of Suburban School Districts, Community Schools, School Administrators, School Boards, Secondary School Principals, and Elementary Principals and

Supervisors, and the Urban Council noted that the intent of the career ladder was to reward good teachers who are currently working in the classroom and expressed a concern that too broad a provision allowing breaks in service would work against this intent. One individual suggested the use of the term "extenuating" rather "extraordinary" in subsections (c)(2)(A) and (B) to help clarify the board's intent in the sections.

The agency's response is that the section permits districts to request authorization from the commissioner of education to use current school year performance evaluations in extenuating circumstances. The amendment provides authorization to use current year appraisals for teachers who were not appraised in the prior year because they were on a temporary disability or professional development leave approved by the district. It is not the intent of the amendment to remove the districts' right to continue to request authorization to use current year evaluations in other types of extenuating circumstances not addressed by the amendment.

The amendment was not intended to address all of the existing concerns related to the career ladder. A public hearing on the rules for career ladder and teacher appraisal will be held June 23 and 24, 1988, to hear testimony on these concerns.

The amendment is adopted under the Texas Education Code, §16.057, which provides for career ladder salary supplements; Texas Education Code, §§13.301-13.322, which establish the teacher career ladder; and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for implementation of the Foundation School Program.

§149.71. Assignment to the Teacher Career Ladder.

- (a)-(b) (No change.)
- (c) The selection process.

(1) A local district shall use a current school year performance evaluation as a criterion for placing a teacher on an advanced level of the career ladder or maintaining a teacher on an advanced level if one or more of the following conditions exist:

(A) no performance evaluation was completed for the teacher by than district in the immediately preceding school year; or

(B) a performance evaluation for the teacher from the immediately preceding school year was destroyed or otherwise removed from the district by former employees.

(2) A local district may use current school year performance evaluations as a criterion for placing or maintaining teachers on career ladder levels only under the conditions specified in paragraphs (2) and (4) of this subsection or in accordance with the following:

- (A) when extenuating cir-

cumstances exist for which an exception is sought, a local district must submit to the commissioner of education a written request in which extenuating circumstances are fully disclosed; and

(B) the commissioner of education may allow a local district to use current school year performance evaluations if the circumstances are deemed extenuating.

(3) Current school year performance evaluations shall be used for purposes of placing or maintaining teachers on advanced levels of the teacher career ladder in the following circumstances:

(A) a teacher was not appraised in the prior year because the teacher was on a local district approved temporary disability leave; or

(B) a teacher was not appraised in the prior year because the teacher was on a local district approved professional development leave.

(4) Texas Civil Statutes, Articles 5996a and 5996d, concerning nepotism, do not apply to the selection of level two, three, or four teachers pursuant to the Texas Education Code, Chapter 13, Subchapter E, added by House Bill 72 of the 68th Legislature, Second Called Session.

(d)-(l) (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 May 19, 1988.

TRD-8805229 W. N. Kirby
Commissioner of Education

Effective date: June 13, 1988

Proposal publication date: January 29, 1988

For further information, please call: (152)463-9212

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 523. Continuing Professional Education

Mandatory Continuing Education (CE) Program

• 22 TAC §523.63

The Texas State Board of Public Accountancy adopts the repeal of §523.63, without changes to the proposed text as published in the March 29, 1988, issue of the *Texas Register* (13 TexReg 1491).

ister (13 TexReg 1491).

The repeal of this section will insure that individuals involved in the practice of public accounting complete 40 hours of continuing education annually.

The repeal of this section will allow for the adoption of a new section that will provide the guidelines for mandatory continuing education attendance for all categories of practice by licensees of the board.

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 regarding mandatory continuing education requirements.

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

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

TRD-8805256 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: June 13, 1988

Proposal publication date: March 29, 1988

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

The Texas State Board of Public Accountancy adopts the new §523.63, with changes to the proposed text as published in the March 29, 1988, issue of the *Texas Register* (13 TexReg 1491).

The new section will insure that individuals involved in the practice of public accounting complete 40 hours of continuing education annually.

The new section will provide the guidelines for mandatory continuing education attendance for all categories of practice by licensees of the board.

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 regarding mandatory continuing education requirements.

§532.63. Mandatory CE Attendance.

(a) Mandatory continuing education (CE) attendance is required of any licensee engaged to any degree in the practice of public accounting as a condition for a license. The practice of public accounting is defined in the rules of professional conduct in §501.2 of this title (relating to Definitions). An annual license is subject to cancellation for an individual in public practice who fails to accrue and report CE hours in accordance with the following schedule.

- (1) 1986 license—A minimum of 40 CE credit hours during the period of

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

TRD-8805277

Pat D. Westbrook
Executive Director
Texas Commission for the
Blind

Effective date: June 14, 1988

Proposal publication date: March 15, 1988

For further information, please call: (512)
459-2601

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**Chapter 174. Endowment Loan
Fund**

• **40 TAC §174.5**

The Texas Commission for the Blind adopts an amendment to §174.5, without changes to the proposed text as published in the April 12,

1988, issue of the *Texas Register* (13 TexReg 1707).

The amendment concerns the availability to eligible clients of a possible lower interest rate on loans for the purchase of technological aids, depending on the economic conditions of the state.

The amendment sets a maximum rate of a 10% simple interest, but allows the rate to lower when the average depository interest rate that the agency receives from funds on deposit with the State Treasury during the month immediately preceding the date that the loan agreement is approved and signed by both parties is higher than 10%.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Human Resources Code, §91.0301, which provides the Texas Commission for the Blind

with the authority to establish and make rules for a program to make loans to finance the purchase of technological aids for visually handicapped persons.

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 May 19, 1988.

TRD-8805276

Pat D. Westbrook
Executive Director
Texas Commission for the
Blind

Effective date: June 14, 1988

Proposal publication date: April 12, 1988

For further information, please call: (512)
459-2601

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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*.

Texas Commission on the Arts

Thursday, June 16, 1988, 10 a.m. The Assistance Review Committee for the Texas Commission on the Arts will meet in the Radisson Hotel, 700 San Jacinto, Austin. According to the agenda, the committee will introduce guests, hold public hearing, state arts plan update, review fiscal year 1989 grant requests, advisory panel recommendations, and meet in executive session (if necessary).

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

Filed: May 24, 1988, 4:20 p.m.

TRD-8805305

Wednesday, June 29, 1988, 10 a.m. The Texas Commission on the Arts will meet in the Radisson Hotel, 700 San Jacinto, Austin. According to the agenda, the commission will introduce new commissioners and guests, hold public hearing, consent to agenda, discuss items for consideration, items for information only, and meet in executive session (if necessary).

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

Filed: May 24, 1988, 4:20 p.m.

TRD-8805306

Texas Bond Review Board

Friday, June 10, 1988, 10 a.m. The Staff Planning Meeting and Public Hearing of the Texas Bond Review Board will meet in Room 102, John H. Reagan Building, Austin. According to the agenda, the board will approve minutes of the previous meeting; hold a public hearing on proposed rules; and consider other business.

Contact: Tom K. Pollard, Sam Houston Building, Room 700, Austin, Texas, (512) 463-1741.

Filed: May 25, 1988, 1988, 2:11 p.m.

TRD-8805342

Texas Board of Chiropractic Examiners

Thursday, June 9, 1988, 2 p.m. The Texas Board of Chiropractic Examiners will meet in the Westin Paso Del Norte, 101 South El Paso Street, El Paso. According to the agenda, the board will conduct a public hearing concerning administering physiotherapy examinations included with the licensure examinations, §8, Rules of Practice.

Contact: Bobbye Ferris, 1300 East Anderson Lane, Building C, Suite 245, Austin, Texas 78752.

Filed: May 26, 1988, 9:19 a.m.

TRD-8805380

Texas Comptroller of Public Accounts

Tuesday, June 7, 1988, 1:30 p.m. The Uniform Statewide Accounting System Committee of the Texas Comptroller of Public Accounts will meet in Room 106, John H. Reagan Building, Austin. According to the agenda, the committee will approve minutes of the previous meeting; hear presentation and discussion of the Human Resource Information System Design and Implementation Project and Uniform Statewide Accounting System Design Project; discuss meeting dates for future presentations of the Human Resource Information System Design and Implementation Project and Uniform Statewide Accounting System Design Project; and hear public testimony.

Contact: Ann S. Fuelberg.

Filed: May 25, 1988, 3:07 p.m.

TRD-8805348

Texas County and District Retirement System

Thursday, June 9, 1988, 9 a.m. The Board of Trustees for the Texas County and District Retirement System will meet in the Columbia Lakes Conference Center, 188 Freeman Boulevard, West Columbia. Ac-

ording to the agenda, the chairman will open the meeting, consider minutes of the March 11, 1988, meeting, consider and pass on applications for service retirement benefits and disability retirement benefits, review and act on reports from the director, actuary, and investment council, and set a date for the September meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

Filed: May 25, 1988, 9:23 a.m.

TRD-8805339

Credit Union Department

Tuesday, June 7, 1988, 10 a.m. The Credit Union Commission of the Credit Union Department will meet at 914 East Anderson Lane, Austin. According to the agenda, the commission will receive minutes of the April 7, 1988, meeting; hear reports from the credit union assistance committee and commission evaluation committee and communications reported by the commissioner; consider final adoption of rules 97.114 (Fees), 92.209 (Filing Fee), 91.203 (Charter Fees), and 91.401 (Fixed Assets); proposed rule 91.204 (Insurance and Denial of Permits); appropriations request-1990-1991 biennium; proposed revision of Texas Credit Union Act; examiner training program; supervision fee for Texas Share Guaranty Credit Union; and resolutions; and conduct executive session to discuss credit unions receiving special supervision and personnel matters.

Contact: Harry L. Elliot, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: May 26, 1988, 9:15 a.m.

TRD-8805379

Texas Advisory Commission on State Emergency Communication

Wednesday, June 1, 1988, 9 a.m. The

Texas Advisory Commission on State Emergency Communication will meet in Room 104, John H. Reagan Building, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting; hear committee reports from Public Information Committee, Administrative Committee, Finance Committee, and Regional Plan Committee; consider final adoption of rules relating to the definition of local exchange access lines as provided in Article 1432f, §6; consider final adoption of rules related to the definition of state agency for purposes of billing the 9-1-1 fees and surcharges; hear public comments; and discuss new business and schedule for future meetings.

Contact: Mary A. Boyd, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: May 24, 1988, 2:48 p.m.

TRD-8805297

Texas Employment Commission

Wednesday, June 1, 1988, 9:30 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, tax liability cases and higher level appeals in unemployment compensation cases listed on Docket 22, and set date of next meeting.

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

Filed: May 24, 1988, 3:19 p.m.

TRD-8805300

Governor's Office

Wednesday, June 1, 1988, 8:30 a.m. The Select Committee on Education, Whole Committee, for the Governor's Office will meet in the Senate Chambers, Capitol Building, Austin. According to the agenda, the committee will meet in the morning to consider facilities overview (current expenditures, debt, interest rates, etc., concepts, issues, and policy decision areas; alternate models used by other states); matrix criteria decisions for reviewing funding alternatives (define equity goals; weighting concept; retention of local fiscal control, i.e., power to supplement); subcommittee reports; bond presentation; and in the after noon for presentation on effective schools research, research on curriculum, higher-order thinking skills, teacher professionalism, outcome assessment measures; presentation on research agenda for the Student Performance/Quality Considerations Subcommittee.

Contact: Margaret LaMontagne, Room 707, Sam Houston Building, Austin, Texas 78711, (512) 463-1834.

Filed: May 24, 1988, 11:23 a.m.

TRD-8805280

Texas Housing Agency

Wednesday, May 25, 1988. Various committees of the Texas Housing Agency met for an emergency agenda revision in Suite 300, THA Conference Room, 811 Barton Springs Road, Austin. The emergency status was necessary to provide decent, safe, and sanitary housing for Texans of low and moderate income. Times and agendas follow.

8 a.m. The Programs Operations Committee considered lender selection criteria for single family allocations; refunds including the residential development revenue bonds, 1982 Series A, multi-family residential certificate of deposit revenue bonds, Series 1983-1983E/\$7,900,000 Series 1983A, and multi-family residential certificate of deposit revenue bonds Series 1983A-1983E/\$13,400,000, 1983B. Resolution amending the origination, sale, and servicing agreement to allow the transfer of servicing to non-participants has been deleted.

Contact: Patricia F. Broline, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: May 24, 1988, 11:24 a.m.

TRD-8805281

9 a.m. The Finance and Audit Committee considered multi-family residential certificate of deposit revenue bonds Series 1983A-1983E/\$7,900,000 Series 1983A, multi-family residential certificate of deposit revenue bonds Series 1983A-1983E/\$13,400,000 Series 1983B; and REO financing and prepayment refunding.

Contact: Patricia F. Broline, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: May 24, 1988, 11:24 a.m.

TRD-8805282

10 a.m. The Board of Directors presented financial quarterly reports; REO financing and prepayment refunding; resolution to authorize the acting director of finance to endorse checks for deposit; report on THA/HUD partnership proposal; act on timeliness of payments by the agency to contractors for services rendered and possible changes/additions to check signing authority; and act on board meeting agendas pursuant to the current rules of the board. They will not consider the resolution amending the OSS to allow the transfer of servicing to non-participants and the storage and access of personnel files.

Contact: Patricia F. Broline, P.O. Box

13941, Austin, Texas 78711, (512) 474-2974.

Filed: May 24, 1988, 11:24 a.m.

TRD-8805283

State Board of Insurance

Thursday, June 2, 1988, 9 a.m. The State Board of Insurance will meet in the Hearing Room, DeWitt C. Greer Building, 11th and Brazos Streets, Austin. According to the agenda, the board will discuss and consider authorization for publication of a proposal for amendment of rules concerning the Texas Catastrophe Property Insurance Association in the general basis schedule adopted under 28 TAC §5.4501, including definition of beach area and approved exception under rule 3 concerning determination.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: May 25, 1988, 2:12 p.m.

TRD-8805343

Interagency Council on Early Childhood Intervention

Monday, June 6, 1988, 8:30 a.m. The Interagency Council on Early Childhood Intervention will meet in Suite 2.340, 1101 East Anderson Lane, Austin. According to the agenda, the council will approve minutes, appoint new advisory committee member, policy charging fees for fiscal year 1989 grant awards, fiscal year 1990-1991 legislative budget board request.

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

Filed: May 25, 1988, 9:21 a.m.

TRD-8805338

Interagency Council for Genetic Services

Friday, June 3, 1988, 1:30 p.m. The Interagency Council for Genetic Services will meet in the First Floor Small Dining Room, 701 West 51st Street, Austin. According to the agenda, the council will adopt minutes of the April 22, 1988, meeting; update birth defects monitoring program models; update data collection for legislative report; report on texgene activities; report on information collection activities of interagency contract members; (directory of genetic services consumer and advocacy groups and private sector of genetic disorders); discuss genetic services; review proposed logo; and set next meeting date.

Contact: Patti J. Patterson, 1100 West 49th

Street, Austin, Texas 78756, (512) 458-7321.

Filed: May 25, 1988, 9:21 a.m.

TRD-8808337

Texas State Board of Examiners of Psychologists

Wednesday-Friday, June 1-3, 1988, 8:30 a.m. The Texas State Board of Examiners of Psychologists will meet in the Woodfin Suites Hotel, 7685 Northcross Drive, Austin. According to the agenda, the board will consider minutes, opinion letters, proposed rules, interviews, hearings, complaints budget, legislative matters, applications, reports, Tex-FARB, oral, jurisprudence, and professional exams review, planning, and personnel matters.

Contact: Patti Bizzell, 1300 East Anderson Lane, Suite C-270, Austin, Texas 78752.

Filed: May 24, 1988, 2:51 p.m.

TRD-8805966

Public Utility Commission of Texas

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

Wednesday, May 25, 1988, 4:30 p.m. The Hearings Division of the Public Utility Commission of Texas met in emergency session for an agenda revision in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will meet in executive session to consider pending litigation matters, including Case 418,841 (Docket 6350). The emergency status was necessary as developments in pending litigation require immediate commission action.

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

Filed: May 24, 1988, 4:15 p.m.

TRD-8805335

Tuesday, June 7, 1988, 1:30 p.m. The Hearings Division will consider Docket 8042-Complaint of International Telecharge, Inc. against AT&T Communications of the Southwest, Inc.

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

Filed: May 25, 1988, 1:58 p.m.

TRD-8805341

Texas Rural Communities

Thursday, June 2, 1988, 9 a.m. The Texas Rural Communities will meet at 314 Highland Mall Boulevard, Austin. According to the agenda summary, the communities will approve minutes of the previous meeting; hear report from John Vasquez, attorney general's office; hear general manager's report, Long Range Planning Committee report, and Loan Committee report; consider preparation of 1988 audit, participation at National Association of Rural Rehabilitation Conference, and 1988-1989 administrative expenses budget formation of nominating committee.

Contact: Jim Bacon, 314 Highland Mall Boulevard, Austin, Texas, (512) 458-1003.

Filed: May 25, 1988, 2:33 p.m.

TRD-8805347

State Securities Board

Tuesday, June 21, 1988, 10 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner will determine whether an order should be issued revoking the registration of Eastern Financial Corporation as a securities dealer; consider whether a cease and desist order should be issued prohibiting Eastern Energy, Inc., Eastern Financial Corporation, Eastern Onshore, Inc., Eastern Offshore, Inc., Eastern Securities, Inc., Cloyd H. Grant, and Richard J. Taylor, their employees, salesmen, and agents from directly or indirectly offering for sale or selling securities issued by the respondents; and consider whether the application of Eastern Offshore, Inc. for registration as a securities dealer should be granted or denied.

Contact: John Morgan, 1800 San Jacinto Street, Austin, Texas (512) 474-2233.

Filed: May 24, 1988, 3:19 p.m.

TRD-8805299

Senate Bill 719 Statutory Council

Friday, June 3, 1988, 10:15 a.m. The Interagency Council on Mentally Retarded, Developmentally Disabled and Mentally Ill Offenders for Senate Bill 719 Statutory Council will meet in Suite 600, Building B, Commissioner's Conference Room, Texas Adult Probation Commission, 8100 Cameron Road, Austin. According to the agenda, the council will hold committee appointments, travel reimbursement for certain members, election of permanent chairperson, prepare budget and proposal for pilot project for MR/DD offenders and implementation of activities, and consider committee meetings and brief reports.

Contact: Marilyn Dierschke, 8100 Cameron Road, Suite 600-B, Austin, Texas, (512) 834-8188.

Filed: May 24, 1988, 4:31 p.m.

TRD-8805307

Teacher Retirement System of Texas

Thursday, June 9, 1988, 2 p.m. The Retirees Advisory Committee of the Teacher Retirement System of Texas will meet in the Boardroom, 1001 Trinity, Austin. According to the agenda, the committee will approve minutes of October 23, 1987, meeting, 1987-1988 plan year; nine month report, status report; House Rule 2470 (catastrophic medicare), and renew proposal for 1988-1989.

Contact: Stan Blake, 1001 Trinity, Austin, Texas 78701, (512) 370-0550.

Filed: May 25, 1988, 10:50 a.m.

TRD-8805334

Texas Water Commission

The Office of Hearings Examiner for the Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Times, rooms, and agendas follow.

Tuesday, June 7, 1988, 9 a.m. The commission will meet in Room 118 to consider employee of the month award, water district use of surplus fund matters, release of escrowed funds, rate matters, certificates of convenience and necessity, water quality proposed permits, amendments and renewals, hazardous waste permits, temporary permit, water right applications, and certificates of adjudication and contract matter.

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

Filed: May 25, 1988, 4:26 p.m.

TRD-8805353

Tuesday, June 14, 1988, 9 a.m. The examiners will meet in Room 512 for public hearing on an application by Fort Terret Ranch, Inc., to combine the water rights authorized by Certificate of Adjudication 14-1483 and Water Use Permit 3523, as amended, under Certificate 14-1483 and to amend certificate 14-1483, as combined.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 25, 1988, 4:26 p.m.

TRD-8805354

Monday, June 20, 1988, 10 a.m. The examiner will meet in Room 1149A to consider rate increase of Forest Lakes Water, Docket 7515-G.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 25, 1988, 4:26 p.m.

TRD-8805355

Monday, June 20, 1988, 10 a.m. The examiner will meet in Room 1149A to consider application for a certificate of convenience and necessity filed by Forest Lakes Water, Docket 7521-C.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 25, 1988, 4:26 p.m.

TRD-8805356

Monday, June 27, 1988, 10 a.m. The examiner will meet in Room 512 to consider an application for a transfer of a water certificate of convenience and necessity filed by Garden Ridge Water Company, Docket 7563-S.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 25, 1988, 4:26 p.m.

TRD-8805357

Tuesday, July 12, 1988, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the Nessler Civic Center, Captain's Room, 2010 Fifth Avenue North, Texas City. According to the agenda summary, the office will consider revised application filed by Gulf Coast Waste Disposal Authority (GCWDA), 810 Bay Area Boulevard, Houston, Texas 77058, for a permit (proposed permit HW-50133-001) to authorize the operation of a commercial disposal facility for the management of hazardous and non-hazardous industrial solid wastes received from off-site generators. The waste authorized for disposal under the proposed permit include ignitable EP toxic, corrosive, reactive and listed hazardous wastes. The facility is on a 200-acre tract of land in Galveston County, approximately 3,600 feet east of the intersection of the Galveston, Houston, and Henderson Railroad and Loop 197 and southwest of Swan Lake. The facility is situated such that it contributes drainage to both Segment 2421 and 2424 of the San Jacinto-Brazos Coastal Basin.

Contact: James Lee Murphy, III, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 24, 1988, 4:02 p.m.

TRD-8805336

Regional Meetings

Meetings Filed May 24, 1988

The Carson County Appraisal District, Appraisal Review Board, met at 102 Main Street, Panhandle, on May 25, 1988, at 8:30 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068.

The Erath County Appraisal District, Appraisal Review Board, met at 1390 Harbin Drive, Stephenville, on May 26, 1988, and will meet on June 1 and 2, 1988, at 9 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-7301.

TRD-8805286

Meetings Filed May 25, 1988

The Austin-Travis County MHMR Center, Board of Trustees, met in Room 410, Fourth Floor, 610 South Congress Avenue, Austin, on May 26, 1988, at 7 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

The Archer County Appraisal District, Appraisal Review Board, will meet at 211 South Center, Archer City, on June 6, 1988, at 9 a.m. Information may be obtained from Edward H. Trigg, P.O. Box 1141, Archer City, Texas 7635, (817) 574-2172.

The Comal Appraisal District, Appraisal Review Board, will meet at 430 West Mill Street, New Braunfels, on June 7, 1988, at 8:30 a.m., June 8, 14, 21-23, and 28-30, 1988, at 9 a.m., and on July 5-7, 12-14, and 19 and 20, 1988, at 9 a.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8697.

The Dawson County Appraisal Review Board, Appraisal Review Board, will meet

at Lamesa Branch of Howard College, 1810 Lubbock Highway, Lamesa, on June 9 and 10, 1988, at 9 a.m. Information may be obtained from Tom Anderson, P. O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Dawson County Central Appraisal District, Board of Directors, will meet at 920 North Dallas Avenue, Lamesa, on June 1, 1988, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Gregg Appraisal District, Appraisal Review Board, will meet at 2010 Gilmer Road, Longview, on June 6, 1988, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Hunt County Tax Appraisal District, Appraisal Review Board, will meet at 4801 King Street, Greenville, on June 2, 1988, at 9 a.m. Information may be obtained from Joe Pat Davis or Linda S. Haynes, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Middle Rio Grande Development Council, Texas Review and Comment System (TRACS), met in the City Council Chambers, Corner of Getty and Main, Uvalde, on May 26, 1988, at 10:30 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The San Patricio County Appraisal District, Board of Directors, will meet at 1146 East Market, Sinton, on June 9, 1988, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-8805309

Meetings Filed May 26, 1988

The Henderson County Appraisal District, Appraisal Review Board, will meet at 1751 Enterprise, Athens, on June 7-10, and 13-17, 1988, at 9 a.m. The Board of Directors will meet at the same location on June 13, 1988, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas, (214) 675-9296.

TRD-8805358

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, require 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 May 18, 1988, the banking commissioner received an application to acquire control of First State Bank, Dime Box, by Frank Riske, Dime Box, L. A. Hill, Jr., Lexington, and Ernest Hulon Bay, Anderson.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

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

TRD-88052 '8

William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: May 23, 1988

For further information, please call (512) 473-1200.

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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⁽³⁾/Agri- cultural/Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/30/88-06/05/88	18.00%	18.00%
Monthly Rate ⁽¹⁾ Art. 1.04(c)	05/01/88-05/31/88	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 ⁽³⁾	04/01/88-06/30/88	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) ⁽³⁾	04/01/88-06/30/88	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	04/01/88-06/30/88	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	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	06/01/88-06/30/88	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 this the 23rd day of May, 1988.

Issued in Austin, Texas, on May 23, 1988.

TRD-8805320 Al Endsley
Consumer Credit Commissioner

Filed: May 25, 1988

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

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**Office of the Governor, Criminal
Justice Division**
Crime Victims Assistance Programs

Under the provisions of the Victims of Crime Act of 1984 (VOCA), Public Law 98-473, Texas will receive a federal grant to continue the funding of a Crime Victims Assistance Program. The Governor has designated the criminal justice division, Office of the Governor, to continue to administer that program in the form of grants to units of government and to nonprofit organizations. The criminal justice division (CJD) is now accepting grant applications for eligible projects from state agencies, units of local government, and nonprofit organizations.

The Crime Victims Assistance Program is intended to start or expand projects that provide assistance (but not compensation) to victims of crime for needs resulting directly from the crime and to assist in their participation in criminal justice proceedings. Projects presently receiving VOCA grant funding are not required to start or expand services further to be eligible for continuation funding, but are required to achieve and sustain the presently approved levels/scope of service and to maintain the existing level of matching cash contribution.

Eligible Projects. Only those projects which provide services to victims of crime are eligible for grant funding. Such services must directly benefit individual crime victims, must assess needs directly resulting from the crime, and may include the required coordination of those services and the training of service providers. Additionally, to be eligible, each project must:

- (1) if it is a new project, receive at least 50% of its budget in cash from sources other than state grants/contracts or federal grants for categorical programs; or, if it is an existing project, must have a record of providing not less than one completed year of effective services, in a cost-effective manner, to victims of crime, and must receive at least 25% of its total budget from either in-kind contributions or in cash from sources other than state grants/contracts or federal grants for categorical programs;
- (2) be operated by a state agency, unit of local government, nonprofit organization, or by a combination thereof;
- (3) utilize volunteers, unless a waiver of this requirement based on compelling justification is requested by the applicant and is approved by the executive director of CJD;
- (4) promote, within the community served, coordinated public and private efforts to aid crime victims; and
- (5) assist victims in seeking available benefits under the Texas Crime Victims Compensation Program.

Significant Restrictions and Special Requirements.

- (1) Crime victims must be the sole or primary beneficiaries of the project.
- (2) Individual grants may not exceed \$50,000.
- (3) Funds may not be used to replace federal, state, or

local funds that would have been available for crime victims assistance in the absence of VOCA funds.

(4) Funds may not be used for crime prevention, witness management, general criminal justice system improvements, management training, advocating particular legislation or administrative reform, for influencing the outcome of any election, for transitional living programs, or for legal assistance and/or representation in civil law issues.

All applications must comply with the program criteria and applicable rules of the CJD, and must be submitted in the form prescribed by CJD. The CJD reserves the right to negotiate modifications to improve the quality and cost-effectiveness of any proposed project and to recommend to the governor the acceptance, acceptance with modification, or rejection of any grant application. This announcement in no way obligates the CJD to award grant funds or to pay any costs incurred by applicants as a result of responding to this announcement.

Deadline. Applications must be postmarked, or delivered in person to CJD, by Monday, July 11, 1988. Prospective applicants need to submit copies of applications to Regional Planning Councils or the Governor's Budget and Planning Office for review under the Texas Review and Comment System (TRACS). In addition, the Office of the Governor, Criminal Justice Division, will conduct workshops to provide assistance in preparing applications; further information will be distributed with the application kits.

Application Forms and Information. Application forms, guidelines, and workshop information will be provided by the CJD upon request. Requests should be directed to the Crime Victims Assistance Section, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Issued in Austin, Texas on May 24, 1988.

TRD-8805298 Rider Scott
Executive Director, Criminal Justice Division
Office of the Governor

Filed: May 24, 1988

For further information, please call (512) 463-1919

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Texas Department of Health
Correction of Error

The Texas Department of Health submitted proposed amendment which contained errors as submitted by the department and as published in the May 6, 1988 issue of the *Texas Register* (13 TexReg 2142).

In §37.83; the implied (a) should read: "In order for a person to be eligible for **chronically ill and disabled** [crippled] children's services, the person has to meet the medical, financial, and related criteria in this section."

Clauses (2)(A)(i) and (ii) appear in italics. These clause should appear in regular print.

Subclause (2)(A)(ii)(II) should read: "(II) The SSI asset limitations are as follows:"

Clause (2)(A)(iv) is new language and should therefore appear in bold face print. The second sentence of this clause should read: As documentation for this exemption, the IRS 501C3 organization must submit to the program the following to be maintained on file: an IRS acknowledgment of 501C3 status (yearly updates to be submitted), and articles of incorporation and amendments.

Clause (7)(F)(iii) is new language and should therefore appear in bold face print.

In §37.86, paragraph (a)(3) is new language and should therefore appear in bold face print.

In §37.87, paragraph (a)(9) is new language and should therefore appear in bold face print.

In §37.88 new paragraph numbers (a)(3)-(5) should appear in bold face print.

New paragraph numbers (b)(2)-(8) should appear in bold face print.

Paragraph (b)(2) is new language and should therefore appear in bold face print.

In §37.90, the heading to paragraph (1) should read: "Physicians, [and] dentists, and podiatrists.

Clause (1)(A)(i) should read: "(i) have a Texas medical/dental/podiatric practice license;

Clause (1)(A)(vii) is new language and should therefore appear in bold face print.

Subparagraph (3)(c) is new language and should therefore appear in bold face print.

Clauses (3)(c)(i)-(xxv) are new language and should therefore appear in bold face print.



Texas Higher Education Coordinating Board

Notice of Meetings

The Bias Review Committee will meet on Tuesday, May 31, 1988, from 6 p.m.-10 p.m. The meeting will be held at the Hyatt Regency, 208 Barton Springs Road, Austin. For additional information, contact the Texas Academic Skills Program (TASP) office at the coordinating board at (512) 462-6485.

Issued in Austin, Texas on May 23, 1988.

TRD-8805290 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: May 24, 1988

For further information, please call (512) 462-6420



The Committee on Upper-Level Schools will meet on Monday, May 23, 1988, from 10 a.m.-3:30 p.m. The meeting will be held at Texas Higher Education Coordinating Board, Room 209, 200 East Riverside Drive, Austin. For additional information, contact the Texas Academic Skills Program (TASP) office at the coordinating board at (512) 462-6485.

Issued in Austin, Texas on May 20, 1988.

TRD-8805295 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: May 24, 1988

For further information, please call (512) 462-6420



The Special Committee of Academic Officers will meet on Tuesday, May 24, 1988, from 10 a.m.-3:30 p.m. The

meeting will be held in the Four Seasons Hotel, 99 San Jacinto Boulevard, Austin. For additional information, contact the Texas Academic Skills Program (TASP) office at the coordinating board at (512) 462-6485.

Issued in Austin, Texas on May 23, 1988.

TRD-8805294 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: May 24, 1988

For further information, please call (512) 462-6420



The Texas Academic Skills Council will meet on Wednesday, May 25, 1988, from 8 a.m.-5 p.m. The meeting will be held in the Four Seasons Hotel, 99 San Jacinto Boulevard, Austin. For additional information, contact the Texas Academic Skills Program (TASP) office at the coordinating board at (512) 462-6485.

Issued in Austin, Texas on May 23, 1988.

TRD-8805293 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: May 24, 1988

For further information, please call (512) 462-6420



The Texas Academic Skills Council will meet on Thursday, May 26, 1988, from 8 a.m.-5 p.m. The meeting will be held in the Four Seasons Hotel, 99 San Jacinto Boulevard, Austin. For additional information, contact the Texas Academic Skills Program (TASP) office at the coordinating board at (512) 462-6485.

Issued in Austin, Texas on May 23, 1988.

TRD-8805292 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: May 24, 1988

For further information, please call (512) 462-6420



The Texas Academic Skills Council will meet on Friday, May 27, 1988, from 8 a.m.-noon. The meeting will be held in the Four Seasons Hotel, 99 San Jacinto Boulevard, Austin. For additional information, contact the Texas Academic Skills Program (TASP) office at the coordinating board at (512) 462-6485.

Issued in Austin, Texas on May 23, 1988.

TRD-8805291 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: May 24, 1988

For further information, please call (512) 462-6420



State Department of Highways and Public Transportation Public Hearing Notice

Pursuant to Texas Civil Statutes, Article 6663b, and the

Urban Mass Transportation Act of 1964, as amended, (49 United States Code 1601 et seq.), the State Department of Highways and Public Transportation will conduct a public hearing to receive data, evidence, comments, views, and/or testimony concerning an application for federal discretionary funds available under the Act, §3, 49 United States Code 1602, for the following described proposed project.

The proposed project involves State Department of Highways and Public Transportation's acquisition of a segment of abandoned railroad right-of-way owned by the Missouri-Kansas-Texas (KATY) Railroad Company and other land owners, more particularly described as approximately 28 miles in length beginning within the city limits of the City of Georgetown, continuing south and parallel to Interstate Highway 35 to the approximate intersection of United States 183 and the Austin and Northwestern Railroad (formerly the Southern Pacific Railroad) within the city limits of the City of Austin, with the width of right-of-way varying between 50 feet to 256 feet and comprising approximately 350 acres, to be incorporated into a multi-modal transportation corridor that will include highway and public transportation components, linking urban communities in Travis and Williamson Counties. The estimated cost of the proposed project acquisition is \$8 million of which approximately 75%, or \$6 million will be sought by the department from the Urban Mass Transportation Administration's §3 fund program and 25%, or \$2 million from local private and public sources.

The public hearing will be held at 7 p.m., Monday, June 13, 1988, in the conference room of the State Department of Highways and Public Transportation's Austin District Office, 7901 North Interstate Highway 35, Austin.

Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of commenters or witnesses will be reserved exclusively for the presiding official as may be necessary to insure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the department reserves the right to restrict testimony in terms of time or repetitive content.

A copy of the proposed application is currently available for public inspection at the department's Austin District Office, 7901 North Interstate Highway 35, Austin. Written comments may be submitted to the following address: State Department of Highways and Public Transportation, D-10P, P.O. Box 5051, Austin, Texas 78763-5051. For further information, please contact Ed Collins, Grants Manager-Urbanized Areas, P.O. Box 5051, Austin, Texas 78763-5051, (512) 465-7466.

Issued in Austin, Texas on May 23, 1988.

TRD-8805308 Diane L. Northam
Administrative Technician
State Department of Highways and Public
Transportation

Filed: May 25 1988

For further information, please call (512) 463-8630

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**Texas Advisory Board of Occupational
Therapy**
**Examination Notice-Occupational
Therapist**

Pursuant to the Rules of the Texas Advisory Board of Occupational Therapy, §373.1(c), public notice is given of the next scheduled examination of occupational therapist

to be administered by the American Occupational Therapy Association on July 23, 1988. The scores are scaled ranging from 300 to 600 with 450 being the passing score.

The examination standards of performance are those used by the American Occupational Therapy Association.

The examination will be held in various locations across the state. Any eligible person interested in taking the examination should contact the American Occupational Therapy Association, 1383 Piccard Drive, Suite 300, Rockville, Maryland 20850, (301) 948-9626.

Issued in Austin, Texas on May 19, 1988.

TRD-8805248 Charles Schiesser
Assistant Commissioner
Texas Rehabilitation Commission

Filed: May 23, 1988

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

◆ ◆ ◆
**Examination Notice-Occupational Therapy
Assistant**

Pursuant to the Rules of the Texas Advisory Board of Occupational Therapy, §373.1(c), public notice is given of the next scheduled examination of occupational therapy assistant to be administered by the American Occupational Therapy Association on July 23, 1988. The scores are scaled ranging from 300 to 600 with 450 being the passing score.

The examination standards of performance are those used by the American Occupational Therapy Association.

The examination will be held in various locations across the state. Any eligible person interested in taking the examination should contact the American Occupational Therapy Association, 1383 Piccard Drive, Suite 300, Rockville, Maryland 20850, (301) 948-9626.

Issued in Austin, Texas on May 19, 1988.

TRD-8805247 Charles Schiesser
Assistant Commissioner
Texas Rehabilitation Commission

Filed: May 23, 1988

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

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Texas Optometry Board
Correction of Error

The Texas Optometry Board submitted an amendment which contained an error as published in the May 17, 1988, issue of the *Texas Register* (13 TexReg 2317).

The heading to §275.1 should read: "Part XIV. Texas Optometry Board, Chapter 275. Continuing Education."

◆ ◆ ◆
Texas Water Commission
Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the City of Cedar

Park on May 20, 1988, assessing \$5,220 in administrative penalties and imposing stipulated administrative penalties.

Information concerning any aspect of this order may be obtained by contacting William W. Thompson, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 20, 1988.

TRD-8805263 Gloria A. Vasquez
 Notices Coordinator
 Texas Water Commission

Filed: May 23, 1988

For further information, please call (512) 463-8069.

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the City of Houston Wastewater Treatment Plants on May 20, 1988, assessing stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting Kevin McCalla, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 20, 1988.

TRD-8805260 Gloria A. Vasquez
 Notices Coordinator
 Texas Water Commission

Filed: May 23, 1988

For further information, please call (512) 463-8069.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day

after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Cematco, Inc. on May 20, 1988, assessing \$48,100 in administrative penalties with \$23,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Michelle A. McFaddin, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 20, 1988.

TRD-8805261 Gloria A. Vasquez
 Notices Coordinator
 Texas Water Commission

Filed: May 23, 1988

For further information, please call (512) 463-8069.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the City of Red Oak on May 20, 1988, assessing stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting Patricia Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 20, 1988.

TRD-8805262 Gloria A. Vasquez
 Notices Coordinator
 Texas Water Commission

Filed: May 23, 1988

For further information, please call (512) 463-8069.



1988 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the 1988 issues of the *Texas Register* for June, July, and August. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
Friday, June 3	Friday, May 27	Tuesday, May 31
Tuesday, June 7	Wednesday, June 1	Thursday, June 2
Friday, June 10	Monday, June 6	Tuesday, June 7
Tuesday, June 14	Wednesday, June 8	Thursday, June 9
Friday, June 17	Monday, June 13	Tuesday, June 14
Tuesday, June 21	Wednesday, June 15	Thursday, June 16
Friday, June 24	Monday, June 20	Tuesday, June 21
Tuesday, June 28	Wednesday, June 22	Thursday, June 23
Friday, July 1	Monday, June 27	Tuesday, June 28
Tuesday, July 5	Wednesday, June 29	Thursday, June 30
•Friday, July 8	Friday, July 1	Tuesday, July 5
Tuesday, July 12	Wednesday, July 6	Thursday, July 7
Friday, July 15	Monday, July 11	Tuesday, July 12
Tuesday, July 19	Wednesday, July 13	Thursday, July 14
Friday, July 22	Monday, July 18	Tuesday, July 19
Tuesday, July 26	Wednesday, July 20	Thursday, July 21
Friday, July 29	Monday, July 25	Tuesday, July 26
Tuesday, August 2.	2ND QUARTERLY INDEX	
Friday, August 5	Monday, August 1	Tuesday, August 2
Tuesday, August 9	Wednesday, August 3	Thursday, August 4
Friday, August 12	Monday, August 8	Tuesday, August 9
Tuesday, August 16	Wednesday, August 10	Thursday, August 11
Friday August 19	Monday, August 15	Tuesday, August 16
Tuesday, August 23	Wednesday, August 17	Thursday, August 18
Friday, August 26	Monday, August 22	Tuesday, August 23
Tuesday, August 30	Wednesday, August 24	Thursday, August 25



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