

# Texas Register

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## Texas Register Publications

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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

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings—notices of open meetings

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

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

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

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "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).

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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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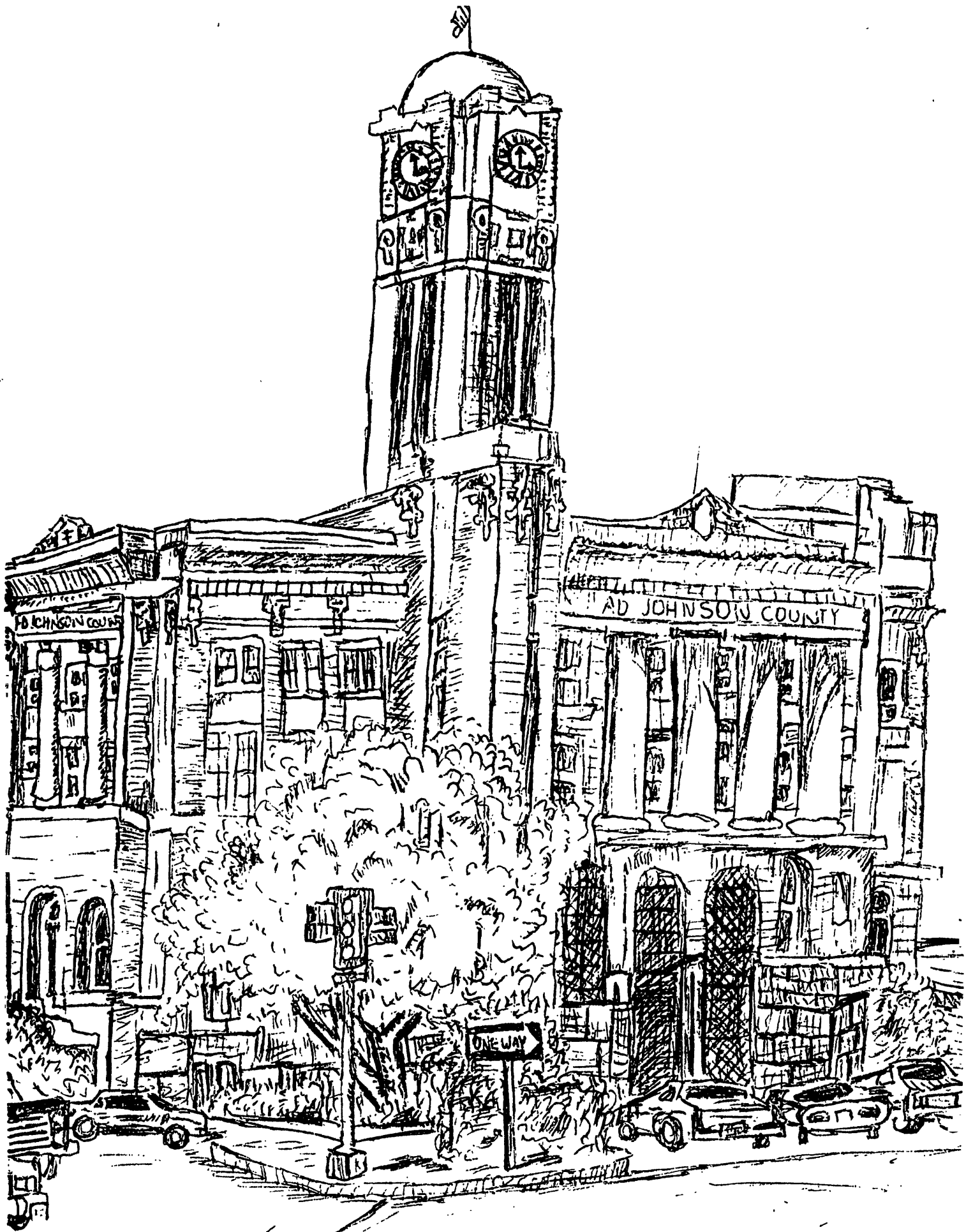
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Name: Robert Harris  
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# TAC Titles Affected

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## TAC Titles Affected--June

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

### TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §§18.1-18.8, 18.15, 18.17-18.27, 18.29-18.38—2739

4 TAC §§18.9-18.14, 18.16, 18.28—2737

### TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

10 TAC §5.317—2725

10 TAC §5.319—2725

10 TAC §5.501—2725

10 TAC §5.503—2726

### TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §1.406—2751

28 TAC §15.28—2752

28 TAC §15.101—2752

28 TAC §49.125—2752

28 TAC §69.55—2752

Part II. Industrial Accident Board

28 TAC §§41.105, 41.110, 41.115, 41.120, 41.125, 41.130, 41.140, 41.145, 41.150, 41.155, 41.160, 41.165, 41.170, 41.175—2726

28 TAC §§42.5, 42.10, 42.15, 42.20, 42.25, 42.30, 42.35, 42.40, 42.45, 42.50, 42.55, 42.60, 42.65, 42.70—2726

28 TAC §§42.105, 42.110, 42.115—2728

### TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

31 TAC §§55.111, 55.114, 55.115—2753

31 TAC §65.313, §65.315—2729

### TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.286—2723, 2730

34 TAC §3.324—2730

34 TAC §3.330—2753

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34 TAC §5.51—2735, 2753

34 TAC §5.52—2735, 2753

34 TAC §5.53—2754

34 TAC §5.54—2754

Part VII. State Property Tax Board

34 TAC §155.15—2735

34 TAC §165.61—2736

34 TAC §165.81—2736





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# Emergency Sections

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

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

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

#### Subchapter O. State Sales and Use Tax

##### 34 TAC §3.286

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.286, concerning seller's responsibilities. The amendment is needed because of changes to the Tax Code made by the second special session of the Legislature. New definitions of "engaged in business" added to the Tax Code effective October 1, 1987, may require many out-of-state firms who solicit business from Texas customers to begin collecting Texas tax. A fee for a sales or use tax permit is now required. The amendment is adopted on an emergency basis because permits must be renewed annually, and the retailer's discount for the timely filing of a sales tax return has been reduced from 1.0% to 1/2 of 1.0% effective October 1, 1987.

The amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

**§3.286. Seller's and Purchaser's Responsibilities.**

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

(1) Engaged in business. A retailer is engaged in business in Texas if the retailer is:

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

(C) promoting a flea market, trade day, or other event involving the sales of taxable items; [or]

(D) utilizing independent salespersons in direct sales of taxable items by a company, corporation, or other person;[

(E) deriving receipts from a lease of tangible personal property lo-

cated in this state;

(F) soliciting orders for taxable items by means of advertising that is broadcast from, printed at, or distributed from, a location in this state if the advertising is intended for consumers in this state and is only secondarily disseminated to bordering jurisdictions. Advertising will be considered to be intended for Texas consumers if 75% or more of the recipients are located in Texas;

(G) soliciting orders for taxable items by mail if:

(i) the solicitations are substantial and recurring;

(ii) the retailer uses any banking, financing, debt collection, telecommunication, or marketing activities occurring in Texas, or benefits from a location in Texas of authorized installations, servicing, or repair facilities. A retailer located outside the state who is not otherwise engaged in business in this state will not be considered as engaging in business in this state by merely placing a request for financing, telecommunication, banking, marketing, or debt collection services at an out-of-state location of a service provider even though the service is performed in whole or in part in Texas.

(H) allowing a franchise or licensee to operate under its trade name if the franchise or licensee is required to collect Texas sales or use tax; or

(I) soliciting orders for taxable items by mail or other media and federal law permits the state of Texas to require the retailer to collect Texas sales or use tax.

(2) (No change.)

(3) Seller—Every retailer, wholesaler, distributor, manufacturer, or any other person who sells, leases, rents, or transfers ownership of taxable items for a consideration. A promoter of a flea market, trade day, or other event involving the sales of taxable items is a seller and is responsible for the collection and remittance of the sales tax collected by dealers, salespersons, or individuals at such events unless the partici-

pants hold active sales tax permits issued by the comptroller. A direct sales organization engaged in business as defined in paragraph (1)(D)(d) of this subsection is a seller and is responsible for the collection and remittance of the sales tax collected by the independent salespersons selling the organization's product.

(b) (No change.)

(c) Obtaining a permit.

(1) An application will be furnished by the comptroller and must be filled out completely. After the application is filled out and returned to the comptroller, together with whatever bond or other security is required by §3.327 of this title (relating to Taxpayer's Bond or Other Security), a separate permit under the same account will be issued to the applicant for each place of business. The permit fee is \$25. [There will be no charge for the permit.]

(2) Each legal entity (corporation, partnership, sole proprietor, etc.) must apply for its own permit. The permit cannot be transferred from one owner to another. It is valid only for the person to whom it was issued and for the transaction of business only at the address shown on the permit. The permit must be renewed yearly on the date of issuance or renewal. The fee for renewal is \$25 for each place of business [need not be renewed]. If a person operates two or more types of business under the same roof, only one permit is needed. It is the seller's responsibility to send an application for renewal and the permit fee to the comptroller no later than the 30th day before the expiration date shown on the permit. Failure to renew causes automatic expiration on the renewal date and the seller is considered to be operating without a permit which is a misdemeanor punishable by a fine of not more than \$500 per day.

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

(d) Collection and remittance of the tax.

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

(3) The amount of the sales tax must be separately stated on the bill, contract, or invoice to the customer or there must be a written statement to the customer that the stated price includes tax. Out-of-state sellers must identify the tax as Texas tax.





# 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 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

#### Chapter 5. Job Training

##### Subchapter C. Financial Management

###### 10 TAC §5.317

*(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 Department of Community Affairs or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Community Affairs proposes the repeal of §5.317, concerning the program year 1985 six percent incentive grant system, under the Job Training Partnership Act (JTPA) program in Texas. The JTPA program is no longer administered by the Texas Department of Community Affairs.

Roger A. Coffield, general counsel, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Coffield also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Roger A. Coffield, General Counsel, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711-3166.

The repeal is proposed under Texas Civil Statutes, Article 4413(201), §4(13), which provide the Texas Department of Community Affairs with the authority to promulgate and adopt such rules and regulations as may be necessary and proper to carry out its programs and responsibilities.

§5.317. *Incentive Grant System.*

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-8805391

Roger A. Coffield  
General Counsel  
Texas Department of  
Community Affairs

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-8016

###### • 10 TAC §5.319

*(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 Department of Community Affairs or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Community Affairs proposes the repeal of §5.319, concerning the program year 1986 six percent incentive grant system, under the Job Training Partnership Act (JTPA) program in Texas. The JTPA program is no longer administered by the Texas Department of Community Affairs.

Roger A. Coffield, general counsel, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Coffield also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Roger A. Coffield, General Counsel, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711-3166.

The repeal is proposed under Texas Civil Statutes, Article 4413(201) §4(13), which provide the Texas Department of Community Affairs with the authority to promulgate and adopt such rules and regulations as may be necessary and proper to carry out its programs and responsibilities.

§5.319. *Incentive Grant System.*

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-8805390

Roger A. Coffield  
General Counsel  
Texas Department of  
Community Affairs

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-8016

## Subchapter E. Monitoring

### • 10 TAC §5.501

*(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 Department of Community Affairs or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Community Affairs proposes the repeal of §5.501, concerning organization and role of the monitoring function at the contractor level in the Job Training Partnership Act (JTPA) program in Texas. The JTPA program is no longer administered by the Texas Department of Community Affairs.

Roger A. Coffield, general counsel, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Coffield also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Roger A. Coffield, General Counsel, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711-3166.

The repeal is proposed under Texas Civil Statutes, Article 4413(201), §4(13), which provide the Texas Department of Community Affairs with the authority to promulgate and adopt such rules and regulations as may be necessary and proper to carry out its programs and responsibilities.

§5.501. *Monitoring.*

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-8805389

Roger A. Coffield  
General Counsel  
Texas Department of  
Community Affairs

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-6016

◆ ◆ ◆  
• 10 TAC §5.503

*(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 Department of Community Affairs or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Community Affairs proposes the repeal of §5.503, concerning organization and role of the monitoring function at the contractor level in the Job Training Partnership Act (JTPA) program in Texas. The JTPA program is no longer administered by the Texas Department of Community Affairs.

Roger A. Coffield, general counsel, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Coffield also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Roger A. Coffield, General Counsel, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711-3166.

The repeal is proposed under Texas Civil Statutes, Article 4413(201), §4(13), which provide the Texas Department of Community Affairs with the authority to promulgate and adopt such rules and regulations as may be necessary and proper to carry out its programs and responsibilities.

§5.503. *The Private Industrial Council Appointments and Requirements for Updating Bylaws and Agreements.*

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-8805392

Roger A. Coffield  
General Counsel  
Texas Department of  
Community Affairs

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-6016

## TITLE 28. INSURANCE Part II. Industrial Accident Board

### Chapter 41. Communications and General Medical Provisions

#### General Medical Provisions

- 28 TAC §§41.105, 41.110, 41.115, 41.120, 41.125, 41.130, 41.140, 41.145, 41.150, 41.155, 41.160, 41.165, 41.170, 41.175

*(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 Industrial Accident Board or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Industrial Accident Board proposes the repeal of §§41.105, 41.110, 41.115, 41.120, 41.125, 41.130, 41.140, 41.145, 41.150, 41.155, 41.160, 41.165, 41.170, and 41.175, concerning general medical provisions. These sections comprise the undesignated head of Chapter 41 titled "General Medical Provisions." The proposed action is for the purpose of reorganization. The enumerated sections are simultaneously proposed for adoption as Subchapter A of proposed new Chapter 42, titled "Medical Benefits."

Scott McAnally, executive director, has determined that there will be no fiscal implications as a result of this proposed repeals.

Mr. McAnally also has determined that the public benefits anticipated as a result of the repeals will be that the reorganization of the board's rules relating to medical benefits will result in improved accessibility and comprehensibility. There is no anticipated economic cost to individuals who are required to comply with the sections proposed for repeal.

Comments on the proposal may be submitted to Scott McAnally, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*.

The repeals are proposed under Texas Civil Statutes, Article 8307, §4(a), which authorizes the board to adopt rules necessary to administer the workers' compensation act.

§41.105. *Preparation and Filing of Initial Medical Reports.*

§41.110. *Subsequent Narrative Medical Reports.*

§41.115. *Additional Filing of Medical Reports.*

§41.120. *Identifying Information in Medical Reports.*

§41.125. *Cost of Medical Reports.*

§41.130. *Assignment of Medical Benefits.*

§41.140. *Demand for Surgical Operation.*

§41.145. *Reports Accompanying Demand for Surgical Operation.*

§41.150. *Scars and Deformities.*

§41.155. *Transportation Costs as Medical Expenses.*

§41.160. *Suspension of Medical Benefits*

*Defined.*

§41.165. *Notice of Suspension of Medical Benefits.*

§41.170. *Voluntary Arbitration.*

§41.175. *Payment of Medical Benefits.*

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

Issued in Austin, Texas, on May 26, 1988.

TRD-8805410

Scott McAnally  
Executive Director  
Industrial Accident Board

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 448-7962

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Chapter 42. Medical Benefits

#### Subchapter A. General Medical Provisions

- 28 TAC §§42.5, 42.10, 42.15, 42.20, 42.25, 42.30, 42.35, 42.40, 42.45, 42.50, 42.55, 42.60, 42.65, 42.70

The Industrial Accident Board proposes new §§42.5, 42.10, 42.15, 42.20, 42.25, 42.30, 42.35, 42.40, 42.45, 42.50, 42.55, 42.60, 42.65, and §42.70, concerning medical benefits provided under the Workers' Compensation Act. The proposed sections define procedures, rights, and duties of claimants, carriers, and health care providers. These sections previously constituted undesignated head "General Medical Provisions" of Chapter 41, repealed simultaneously. The sections now comprise subchapter A of new chapter 42. This proposed action is for reorganization purposes.

Scott McAnally, executive director, has determined that for the first five years these proposed sections will be in effect, there will be no fiscal implications for state or local government or small business as a result of enforcing or administering the sections.

Mr. McAnally also has determined that for each of the first five years the proposed sections are in effect, the public benefits will be improved accessibility and comprehensibility. 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 Scott McAnally, Executive Director, Industrial Accident Board, 200 Riverside Drive, First Floor, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8307, §4 (a), which authorize the board to adopt rules necessary to administer the Workers' Compensation Act.

§42.5. *Preparation and Filing of Initial Medical Reports.*

(a) When a physician, chiropractor, or podiatrist renders care to an injured worker, he shall submit an initial report in

accordance with Texas Civil Statutes, Article 8306, §7. This initial report may be a narrative report or a form report. If a form report is used for the initial report, it must contain as a minimum all or substantially all of the information required in the Physician's Report IAB-152.

(b) A copy of each and every initial medical report of the health provider shall be promptly and simultaneously sent to the insurance carrier and to the claimant or his attorney.

(c) Any party to a claim must file a copy of each and every medical report and/or hospital record with the board on request.

**§42.10. Subsequent Narrative Medical Reports.** Subsequent narrative medical reports reasonably necessary to inform the insurance carrier, claimant, and board of the injury status of the claimant shall be periodically and simultaneously sent by the health provider to the insurance carrier, claimant or his attorney, and the board.

**§42.15. Additional Filing of Medical Reports.**

(a) All available medical reports and medical information shall be filed with the board by the insurance carrier after the expiration of four weeks of disability, or following the amputation of any member, or earlier if requested by the board.

(b) All available medical reports and medical information shall be filed with the board by the attorney for the claimant after the expiration of four weeks of disability, or following the amputation of any member, or earlier if requested by the board.

**§42.20. Identifying Information in Medical Reports.** In addition to the information concerning the description of the injury or disease, the treatment thereof, and any known or estimated disability resulting therefrom, each medical report shall also contain sufficient information to enable the insurance carrier and board to identify the compensation claim to which the report refers. At a minimum, such identifying information shall include the name of the patient (claimant), his social security number, the date of injury, the name of the employer, and if known, the board and insurance company file numbers.

**§42.25. Cost of Medical Reports.** The association shall pay the fair and reasonable charges of the health provider for the preparation and submission of both the initial and subsequent medical reports, records, and information. There shall be no additional charge made to the claimant, or his attorney, or the board for copies of these reports and records.

**§42.30. Assignment of Medical Benefits.** In the event an assignment of medical benefits is made by an injured employee to a health or accident insurance company, a true copy thereof shall be promptly and simultaneously filed by the health or accident insurance company with

both the board and association.

**§42.35. Demand for Surgical Operation.** Any written demand for a surgical operation under Texas Civil Statutes, Article 8306, §12e, or any application for reduction or suspension of compensation pursuant to Article 8307, §4, must be filed with the board at least seven calendar days prior to the date of hearing. However, where good cause for waiving strict compliance is approved by the board, parties may file demand for or tender of surgery on or before the scheduled date of hearing.

**§42.40. Reports Accompanying Demand for Surgical Operation.**

(a) Demand for surgery either by the claimant or by the insurance carrier shall be accompanied by a medical report which establishes, regardless of specific words used, that:

(1) in reasonable medical probability the requested surgical procedure will either effect a cure or will materially and beneficially improve and relieve the claimant's condition; and

(2) the surgery is medically advisable.

(b) In addition to the medical report described in subsection (a) of this section, the party demanding the surgery shall simultaneously file with the board all other medical reports pertinent to the injury or disease at issue.

**§42.45. Scars and Deformities.** In all cases involving severe and disfiguring burns or lacerations, a descriptive medical report of the scars or deformity shall be submitted by either the carrier or the claimant. In all such cases involving scars to the face, arms, or hands, a color photograph taken after maximum healing has occurred must be submitted at or prior to any final board action on the claim.

**§42.50. Transportation Costs as Medical Expenses.** Whenever it becomes reasonable necessary for a claimant to travel outside the city or county of his or her residence in order to obtain medical care under Texas Civil Statutes, Article 8306, §7, the reasonable costs thereof shall be reimbursed by the insurance carrier. This would include, where appropriate, the reasonable costs of meals and lodging. All travel by private conveyance shall be based upon the mileage expense allowance then current for travel by state employees.

**§42.55. Suspension of Medical Benefits Defined.**

(a) A carrier will be deemed to have suspended medical benefits when:

(1) it has filed the notice required in §41.165 of this title (relating to Notice of Suspension of Medical Benefits); or

(2) it has failed to promptly direct the claimant to a health provider, following request therefore by the claimant pursuant to Texas Civil Statutes, Article

8306, §7;

(3) it has failed or refused to pay an accrued and itemized health provider bill (medical expense), as submitted, and within 30 days from the carrier's receipt thereof. For the purpose of this section, a health provider bill will be considered adequately itemized if it is in sufficient detail to permit the carrier and board to evaluate whether the charges thereon are fair and reasonable within the meaning of Texas Civil Statutes, Article 8306, §7 and §7b.

(b) All carriers shall promptly date stamp each health provider bill with the date the same was received by the carrier. Failure on the part of the carrier to comply with this section shall create a rebuttable presumption that such health provider bill was received by the carrier within five business days of the date of such bill.

**§42.60. Notice of Suspension of Medical Benefits.** An insurance carrier shall notify the board in writing within 10 days following any decision to suspend or terminate medical benefits as provided in Texas Civil Statutes, Article 8306, §7, giving the reason or reasons therefore. A copy of this notice shall be simultaneously sent to the claimant or his attorney, if any, and to the health provider(s).

**§42.65. Voluntary Arbitration.** The board shall establish procedures for selection of voluntary arbitration panels to assist the board in regulating fees and charges submitted by health care providers to the full extent authorized by Texas Civil Statutes, Article 8306, §7 and §7b.

(1) The executive director of the board shall prepare bylaws subject to the final approval of the board governing the operation and functions of the various voluntary arbitration panels.

(2) The executive director of the board shall implement the procedures so adopted by the board, and he or his designee shall supervise the arbitration panels established by the board and shall serve as chairman of each panel. However, the executive director may from time to time designate the assistant executive director of the board or other person to act as chairman in his place.

(3) The procedures for selection of panels and the bylaws shall be available to all parties.

**§42.70. Payment of Medical Benefits.** In any case where the carrier has accepted liability for compensation benefits, if the carrier subsequently denies any part of a health care provider's bill, within 20 days after such denial, the carrier shall notify the board in writing and shall explain in detail the reason(s) for its refusal to pay each item. The carrier shall provide copies of the notification to the health care provider and to the claimant and his or her attorney. These copies shall include the following statement: The insurance carrier, and not the claimant/patient or employer, is solely

responsible for all reasonable and necessary medical treatment rendered in connection with the injury, and no billing for any unpaid amounts should be directed to the claimant/patient or employer, nor should any attempt be made to collect any unpaid amount from the claimant/patient or employer, unless the claim has been denied by the board or the court.

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 26, 1988.

TRD-8805409      Scott McAnally  
Executive Director  
Industrial Accident Board

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 448-7962

## Subchapter B. Medical Cost Containment

### 28 TAC §§42.105, 42.110, 42.115

The Industrial Accident Board proposes new §§42.105, 42.110, and 42.115, concerning official medical fee guidelines, method for calculating official hospital fee guidelines, and method for calculating official pharmaceutical fee guidelines. The guidelines establish fair and reasonable fees and charges for medical, hospital, and pharmaceutical goods and services rendered under the Workers' Compensation Act. They are proposed pursuant to Senate Bill 1355, 70th Legislature, 1987. These sections constitute new Subchapter B, entitled "Medical Cost Containment," of new Chapter 42.

Scott McAnally, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the sections.

Regarding state government, there are fiscal implications anticipated for the first five-year period the sections will be in effect. The fiscal implications are: the 70th Legislature appropriated \$600,000 a year for the 1988-89 biennium to the Industrial Accident Board to initiate and maintain the medical cost containment program; and the state in its capacity as an employer should experience a reduction in the costs of medical, hospital, and pharmaceutical goods and services as a result of the guidelines.

Regarding effect on local government, the hospital fee guidelines are anticipated to affect public hospital revenues by containing charges for hospital goods and services provided to workers' compensation claimants by approximately 8%. This cost containment factor is based on national averages for other medical cost containment programs, since no data is currently available for the Texas system. The board will collect and analyze data from the inception of the program in September, 1988, and will be able to provide a more exact measure of the fiscal impact on Texas public hospital facilities.

Regarding effect on small businesses, for

those involved in delivering medical and pharmaceutical goods and services to workers' compensation claimants (e.g., doctors, offices and pharmacists), the cost of compliance with the medical and pharmaceutical fee guidelines will be approximately 2% of present annual revenue. This figure is based on national averages for other states, workers' compensation medical cost containment programs, since no data is currently available for the Texas system. The board will collect and analyze data from the inception of the program in September, 1988, and will be able to provide a more exact measure of the fiscal impact on small businesses by August 31, 1989. For those small businesses which purchase workers' compensation coverage for their employees, the board anticipates a reduction in premiums based on the projected 10% overall savings for medical, hospital, and pharmaceutical goods and services rendered under the Workers' Compensation Act.

Comparing the cost of compliance with the guidelines for small businesses with the cost of compliance for the largest businesses affected, the board estimates that small businesses (e.g., doctors, offices and pharmacists) may experience a reduction in annual revenue of approximately 2%, while the largest businesses (e.g., hospitals) may experience a reduction in annual revenue of approximately 8%. All businesses which purchase workers' compensation coverage for their employees should benefit from the reduction in premiums anticipated to result from the medical cost containment program.

Mr. McAnally 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 uniform standard for fair and reasonable fees and charges for medical, hospital, and pharmaceutical goods and services; reduced fees and charges; improved delivery and quality of medical, hospital, and pharmaceutical goods and services to workers' compensation claimants; prompter payment and increased security of payment to health care providers; reduced administrative costs to carriers; and reduced premiums to employers.

The only anticipated economic cost to individuals who are required to comply with the sections as proposed is the \$10 purchase price of the medical and hospital fee guidelines.

Comments on the proposal may be submitted to Scott McAnally, Executive Director, Industrial Accident Board, 200 East Riverside Drive, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8307, §4(a), which authorizes the board to adopt rules necessary to administer the Workers' Compensation Act, and Article 8306, §7b, which authorizes the board to establish and maintain a guideline of fair and reasonable fees and charges.

#### §42.105. Official Medical Fee Guidelines.

(a) The Official Medical Fee Guidelines for Services Rendered under the Texas Workers' Compensation Laws is adopted by reference. The guidelines are adapted from the 1988 *Official Medical Fee*

*Schedule for Services Rendered under the California Workers' Compensation Laws, a relative value scale.*

(b) Copies of the medical fee guidelines will be made available upon written request to Administrator, Medical Cost Containment Division, Industrial Accident Board, 200 East Riverside Drive, Austin, Texas 78704-1287.

(c) The charge for the medical fee guidelines shall be \$10. This charge may be revised periodically, as necessary.

#### §42.110. Method for Calculating Official Hospital Fee Guidelines.

(a) The board adopts the following methods for calculating hospital fee guidelines.

(1) Per diems: Charges for room rates ("per diems") will be reimbursed according to the average cost per patient day for inpatient routine services (room, board, and general duty nursing) and/or the average cost per day in special care units submitted annually by Texas hospitals to the Health Care Financing Administration (Medicare Cost Reports, HCFA Form 2552, Supplemental Worksheet D-1, Part II) times the number of days billed.

#### (2) Ancillary Services

(A) The board will compute for each hospital in Texas a combined ratio of total costs to total charges (RCC rate) for all ancillary services provided by an individual hospital based on the settled cost reports (Medicare Cost Reports, HCFA Form 2552, Worksheet C) submitted annually by Texas hospitals to the Health Care Financing Administration. The RCC rate is computed by dividing total costs by total charges.

(B) The carrier will determine the fair and reasonable reimbursement for ancillary services provided and billed by a hospital by multiplying the hospital's RCC rate times the total charges billed, then increasing the adjusted total by 8%.

(b) The board will publish the per diems and RCC rates as the *Official Hospital Fee Guidelines for Services Rendered Under the Texas Workers' Compensation Laws*. The guidelines will be reviewed and revised periodically, as necessary.

(c) Copies of the hospital fee guidelines will be made available upon written request to: Administrator, Medical Cost Containment Division; Industrial Accident Board, 200 East Riverside Drive, Austin, Texas 78704-1287.

(d) The charge for the guidelines shall be \$10. This charge may be revised periodically, as needed.

#### §42.115. Method for Calculating Official Pharmaceutical Fee Guidelines.

(a) The board adopts the following

method for calculating pharmaceutical fee guidelines.

(1) The board will establish:

(A) a uniform percentage for overhead costs; and

(B) one filling fee for brand name pharmaceuticals, and one filling fee for generic equivalents.

(2) The board will determine the fair and reasonable charge for pharmaceuticals according to the following formula: average wholesale price (AWP) (as listed in the 1987-1988 *Blue Book American Druggist Annual Directory of Pharmaceuticals*, published by The Hearst Corporation) times the percentage for overhead plus the filling fee.

(b) The board will publish the pharmaceutical reimbursement formulas as the *Official Pharmaceutical Fee Guidelines for Services Rendered Under the Texas Workers' Compensation Laws*. The guidelines will be reviewed and revised periodically as necessary.

(c) There will be no charge for the guidelines.

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 26, 1988.

TRD-8805408      Scott McAnally  
Executive Director  
Industrial Accident Board

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 448-7962

◆      ◆      ◆  
**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION**  
**Part II. Texas Parks and  
Wildlife Department**  
**Chapter 65. Wildlife**  
**Subchapter N. Early Season  
Migratory Game Birds**  
**31 TAC §65.313, §65.315**

The Texas Parks and Wildlife Commission proposes amendments to §65.313 and §65.315, concerning the early season for migratory game birds. The proposed amendments add language for clarification, modify the daily bag limit during the Special White-winged Dove Season, and provide for later closing dates for the Extended Falconry Seasons. These changes are contingent upon United States Fish and Wildlife Service approval.

The commission is responsible for establishing seasons, bag limits, means, methods, and devices for taking and possessing migratory game birds. Regulations for hunting migratory game birds may be set by the state only within a framework established by the United States Fish and Wildlife Service. The general framework issued by the Fish and Wildlife Service allows states within major flyway systems to adjust seasons and bag limits to take into consideration their localized circumstances.

The proposals for migratory species are based upon the most current data available. The seasons, bag limits, means, and methods are tentative and subject to modification. The proposed rules may be modified by Parks and Wildlife Commission action as a result of changes in migratory game bird populations as determined by annual surveys, public hearings concerning regulation frameworks held by the Fish and Wildlife Service in Washington, D.C., public hearings held by the Parks and Wildlife Commission, and comments solicited from this proposal.

Jim Dickinson, director of finance, has determined that for the first five-year period the 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. Dickinson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the taking of migratory wildlife resources consistent with their populations and the clarification of the migratory game bird rules. 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 Ronnie R. George, Program Leader, Migratory Shore and Upland Game Birds, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4788 or 1-(800) 792-1112 ext. 4778.

The amendments are proposed under the authority of Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the commission with authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

*§65.313. Open Seasons, Shooting Hours, Bag and Possession Limits.*

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

(g) Every migratory game bird wounded by hunting and retrieved by the hunter shall be immediately killed and become a part of the daily bag limit.

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

(3) White-winged doves. Special white-winged dove area: That portion of the state south and west of a line beginning at the International Bridge south of Fort Hancock; thence north along FM Road 1088 to State Highway 20; thence west along State Highway 148 to Interstate Highway 10 at Fort Hancock; thence east along Interstate Highway 10 to United States Highway 90 at Van Horn; thence southeast

along United States Highway 90 to United States Highway 83 at Uvalde; thence south along United States Highway 83 to State Highway 44; thence east along State Highway 44 to State Highway 16 at Freer; thence south along State Highway 16 to State Highway 285 at Hebbronville; thence east along State Highway 285 to FM Road 1017; thence southeast along FM Road 1017 to State Highway 186 at Linn; thence east along State Highway 186 to the Mansfield Channel at Port Mansfield; thence east along the Mansfield Channel to the Gulf of Mexico.

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

(C) Bag and possession limits: 12 [10] white-winged doves, mourning doves, and white-tipped (white-fronted) doves in the aggregate including no more than [two mourning doves and] two white-tipped doves per day; 24 [20] white-winged doves, mourning doves, and white-tipped doves in the aggregate including no more than [four mourning doves and] four white-tipped doves in possession.

(4)-(7) (No change.)

*§65.315. Extended Falconry Season.*

(a) (No change.)

(b) It is lawful to take migratory game birds by means of falconry during the following prescribed open seasons.

(1) Rails: September 1-November 20 and January 1-January 26 [December 16], from one-half hour before sunrise to sunset.

(2) Mourning doves: September 1-November 20 [30] and January 1-January 26 [beginning on the first Saturday in January for 16 consecutive days], from one-half hour before sunrise to sunset.

(3) White-winged doves: September 1-November 20 [30] and January 1-January 26 [beginning on the first Saturday in January for 16 consecutive days], from one-half hour before sunrise to sunset.

(4) Gallinules: September 1-November 20 and January 1-January 26 [December 16], from one-half hour before sunrise to sunset.

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

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

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

TRD-8805345      Boyd Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 389-4778

**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

**Chapter 3. Tax Administration**

**Subchapter O. State Sales and Use Tax**

**• 34 TAC §3.286**

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

The Comptroller of Public Accounts proposes an amendment to §3.286, concerning seller's responsibilities. The amendment is needed because of changes to the Tax Code made by the second special session of the Legislature. New definitions of "engaged in business" added to the Tax Code, may require many out-of-state firms who solicit business from Texas customers to begin collecting Texas tax. A fee for a sales or use tax permit is now required. Permits have to be renewed annually, and the retailer's discount for the timely filing of a sales tax return has been reduced from 1.0% to 1/2 of 1.0% effective October 1, 1987.

Jim Shear, director of the comptroller's economic analysis center, 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. Shear 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 clarification of the rules regarding seller's responsibilities. 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 Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 26, 1988.

TRD-8805425      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

**Subchapter O. State Sales and Use Tax**

**34 TAC §3.324**

The Comptroller of Public Accounts proposes an amendment to §3.324 concerning oil, gas, and related well service. A recent administrative decision issued by a comptroller's administrative law judge has held part of this section to be void to the extent that it attempted to convert sales into service. This amendment follows the administrative decision. The amendment also addresses those activities which became taxable effective January 1, 1988, due to the legislative changes, and clarifies some areas and situations with which the Comptroller's Office has dealt since the last rule amendment.

Jim Shear, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government. This section is adopted under the Tax Code, Title 2, and does not require a statement of the fiscal implications for small businesses.

Mr. Shear also has determined that this change will benefit the public by providing current information regarding their responsibilities under the sales tax code. 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 Wayne McDonald, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendments are proposed under the Tax Code, §111.002, which provides the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

**§3.324. Oil, Gas, and Related Well Service.** (Texas Tax Code §151.005, §151.007).

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

(1) (No change.)

(2) Taxable services—The total charge (materials, labor, equipment usage, and any other related charges) to repair, restore, remodel or maintain any item within the wellbore [(inside the casing)] or to repair, restore, remodel or maintain any other item of tangible personal property, or repair, remodel or restore real property.

(3) Nontaxable services—[The labor to repair the casing,] The labor to start or stimulate production or the labor to work on the formation outside the well. Pumping the product is not considered to be stimulating production.

(b) Responsibilities of those providing a nontaxable well service.

(1) (No change.)

(2) Work performed inside the wellbore for the purpose of starting initial production or increasing production by

working on the formation [or repairing the casing] is not taxable. The following activities are not taxable.

(A) Fracturing (Frac job) work done on a well using high pressure pumps to stimulate production by increasing the permeability of the producing formation. Under extremely high hydraulic pressure a fluid (water, oil, alcohol, hydrochloric acid, liquefied petroleum gas, foam) is pumped down through the tubing and forced into perforations in the casing. The fluid enters the producing formation and parts or fractures it. Sand, aluminum pellets, glass beads, or similar materials are carried in suspension into the fractures. These are propping agents. When pressure is released at the surface the frac fluid returns to the wellbore and the fractures partially close on the proppants leaving channels for oil or gas to flow through to the wellbore. The well is then ready to complete or put back on production. (See the Tax Code, Chapter 191, relating to the 2.42% well servicing tax.)

(B) (No change.)

(C) Squeeze cement—Cementing trucks with high pressure pumps force cement slurry to a specified point in the well to cause seals at the points of squeeze. It is a secondary cementing method that is used to isolate a producing formation or [,] seal off water. [, or repair casing leaks or damage.] (See paragraph (d)(5) of this section for the tax responsibilities to repair the casing string.)

(D) Workover—To perform one or more remedial operations when the formation has declined in production or ceased to produce, with the hope of restoring or increasing production. Workover operations can include deepening[, or plugging back[, pulling and resetting the casing liner, squeeze cementing, and any other variety of work that causes the formation to release the oil].

(E) Acidizing—The treatment of formations by chemical reaction with acid in order to increase production. Hydrochloric or other acid is pumped into the formation under pressure causing the pore space and permeability to increase. The acid may be held under pressure for a period of time before the well is put back on production. Chemical inhibitors are combined with the acid to prevent corrosion of the pipe. (See the Tax Code, Chapter 191, relating to 2.42% well servicing tax.)

(F) Logging—A device which is run into the well to record certain electrical or radioactive characteristics of the formations. The purpose of the well log is to



locate, identify and evaluate the various formations present. (See the Tax Code, Chapter 191, relating to 2.42% well servicing tax.)

(G)-(K) (No change.)

(L) Installing a casing liner—This service is similar to that described in paragraph (K) except that it involves the initial installation of the [running] casing [back in the hole] to the desired depth for producing the well.

(M)-(R) (No change.)

(S) Hot oil treatment of formation—If a hot oil unit is used for the purpose of treating the formation, it will be considered a nontaxable service. The invoice must clearly identify the purpose of the treatment or it will be considered to be a treatment on the wellbore and taxable.

(3) The provider of a nontaxable service should pay sales tax on any machinery or equipment purchased or rented to provide the service and on any materials (except cement) used, consumed, or expended in [or incorporated into] the well.

(4) (No change.)

(5) If the provider of a nontaxable service sells any materials to a customer that were not used in the well servicing, sales tax must be collected on the sales price. Any machinery or equipment transferred to the customer will be taxable to the customer [only] if sold or rented without an operator [or supervisor]. Those items listed on the well service invoice as "rentals" which are so called merely because of the carry-over of the term from past industry practice are not rentals as defined in §3.294 of this title (relating to Rental and Lease of Taxable Items).

(6) Direct payment permit holders should not issue direct payment exemption certificates to persons providing nontaxable services.

(7) When a direct payment permit holder is doing business with a person who may be selling taxable items as well as nontaxable services,\*the direct payment exemption certificate must indicate that it does not cover any nontaxable services that the servicer may provide. The issuance of a specific direct payment exemption certificate will be considered evidence of the direct payment permit holder's intent to purchase any tangible personal property transferred by the service provider rather than the purchase of a nontaxable service.

(c) Sale or rental vs. service.

(1) If a company merely provides equipment and a supervisor, the

presumption will be that the company is not providing services but selling or renting equipment. The charge for the supervisor's time is part of the tax base as an expense connected with the sale or rental. Mileage charges are also taxable. Equipment being incorporated into the wellbore, i.e., hanger liners, packers, plugs, etc., may be purchased tax free by issuing a resale certificate. The invoice and/or back-up work tickets must clearly indicate what is occurring.

(2) Sales tax must have been paid on tools and equipment used to provide the service. If the service company also rents the tools, sales tax must be collected on the rental price. Rental tools and equipment may not be purchased tax free unless segregated inventories are kept by the service company.

(d)[(c)] Responsibilities of those providing taxable services.

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

(4) On occasion, down hole services described in subsection (d) of this section may be performed in order to facilitate a nontaxable service, e.g., pull tubing to perform workover. This will render the taxable service nontaxable. Any equipment incorporated into the well, in this situation, will still be considered as sold to the operator; and the operator will owe tax on the amount charged for the equipment.

(5) The labor to repair, remodel, or restore an item of real property is a taxable service. Tax is due on the total amount charged for the taxable service. The following activities are taxable:

(A) squeeze cement—cementing trucks with high pressure pumps force cement slurry to a specified point in the well to cause seals at the points of squeeze. It is a secondary cementing method used to repair casing leaks or damage;

(B) pulling or resetting casing liner—pulling or resetting a liner for the purpose of repairing the casing string.

(e)[(d)] Work crews.

(1) The labor charge by persons who prepare a well for servicing will be taxable or not taxable depending on what is actually done by the provider of the service. For example, a crew removing rods so that a pump may be repaired would be providing taxable labor. A crew removing tubing so that a workover could be accomplished [casing could be repaired] would not be providing taxable labor.

(2) General maintenance around a well site may be either [will be presumed to be] maintenance on tangible personal

property, a real property service (§3.356 of this title (relating to Real Property Service)), or repair to real property (§3.357 of this title (relating to Real Property repair and Remodeling)) depending on the service provided, unless billings indicate that labor was performed on something qualifying as real property.] Examples of maintenance of tangible personal property [taxable maintenance] include service to [repairing] flow lines, [replacing] pumps, and gauges. Examples of real property services include cutting weeds and grass, or general maintenance of the lease site [nontaxable maintenance] include cutting weeds, covering oil spills, and mowing grass]. An example of a repair or restoration of real property would be sandblasting and repainting 1000 barrel tanks.

(3) All welding in the field will be presumed to be taxable [done on tangible personal property] unless billings clearly indicate [that] the labor was performed as part of new construction as defined in §3.357 of this title (relating to Real Property Repair and Remodeling) or third-party installation (initial only) of customer-owned equipment [on something qualifying as real property].

(f)[(e)] Lost or damaged items.

(1) Any charges by the service company for items lost or damaged beyond repair while providing the well service will not be considered a sale of such items but a reimbursement of cost by the customer. The transaction should not be labeled as a "sale" on the invoice. The service company may be reimbursed for the sales or use tax it paid by including the sales or use tax on the invoice to the customer as a part of the charge for such item. The reimbursement of sales or use tax may not be separately stated as tax.

(2) Any charges by the service company for items damaged [by the customer] while being rented or [and] used by the customer or service company are taxable to the customer. [See subsection (b)(5) of this section for taxable rentals.]

(g)[(f)] All process licenses are intangible items, and the fees paid by the service company to the holder of the patents are nontaxable where there is a service only.

(h) Chemicals, brine water, KCL-sales vs. service.

(1) The injection of maintenance-type chemicals such as corrosion inhibitors, bactericides, etc., is considered a taxable service. Tax is due on the total charge including mileage, standby, pump truck, and labor. The chemical company may purchase the chemical tax free under this situation.

(2) The injection of chemicals to stimulate production or remove impurities from the product being removed

such as acid, emulsifiers, or nitrogen is a nontaxable service. The service company is the consumer of all chemicals pumped down hole and must pay tax at the time of purchase.

(3) Kill charges will be taxable or nontaxable depending on the overall purpose. All kill charges will be presumed taxable until the contrary is established. The service company should bill tax if it is not known at the time of billing what the overall purpose was. The operator must then pay the tax or provide either a direct payment exemption certificate or a statement that the purpose was to facilitate a nontaxable service. The statement must be definite in the purpose claimed. Statements such as "to stimulate production" are insufficient and will be disallowed.

(4) A service company will be considered to be providing services if they do the actual injection into the well. Deliver into a frac tank or other storage unit will be considered a sale of tangible personal property. If it is unclear from the invoice, the presumption will be that if a high pressure pump truck is used, a service has occurred; if a vacuum truck is used to deliver the fluids, then a sale of tangible personal property has occurred. The service company may purchase all components of the fluids tax free when making a sale or providing a taxable service.

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-8805363 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

## Chapter 5. Funds Management (Fiscal Affairs)

### Claims Processing-Travel Vouchers

#### 34 TAC §5.21

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.21, concerning the definitions that are applicable to the regulations governing travel by state officers and employees. The *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative

rules, contains the same definitions as §5.21. Therefore, the repeal is being proposed to avoid unnecessary confusion that may arise from the two sets of definitions.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.  
**§5.21. Definitions.**

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-8805369 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

#### • 34 TAC §5.23

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.23, concerning standard expense account forms. The section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules, contains the same definitions as §5.23.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

#### **§5.23. Standard Expense Account Form.**

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-8805368 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

#### • 34 TAC §5.24

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.24, concerning responsibility of agency and employee. The section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules, contains the same definitions as §5.24.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

#### **§5.24. Responsibility of Agency and Employee.**

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-8805370 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4,  
1988

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

◆ ◆ ◆  
**34 TAC §5.25**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.25, concerning requirements of vouchers. This section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules, contains the same definitions as §5.25.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

This repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.  
**§5.25. Requirements of Vouchers.**

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-8805371 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4,  
1988

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

◆ ◆ ◆  
**• 34 TAC §5.26**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.26, concerning voucher submittance. The section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules, contains the same definitions as §5.26.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. 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 Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.  
**§5.26. Voucher Submittance.**

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-8805375 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4,  
1988

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

◆ ◆ ◆  
**• 34 TAC §5.27**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.27, concerning public transportation in or out-of-state. This section is being repealed because the same subject matter is covered in *State of Texas Travel Allowance Guide* that has previously been incorporated by reference as §5.22 of the comptroller's administrative rules.

Ben Lock, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Lock also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be having state

agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.  
**§5.27. Public Transportation In Or Out-of-State.**

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-8805376 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4,  
1988

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

◆ ◆ ◆  
**• 34 TAC §5.29**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.29, concerning the out-of-state to points not served by commercial airlines. The section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

**§5.29. Out-of-State to Points Not Served by Commercial Airlines.**

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-8805377      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

◆      ◆      ◆  
**34 TAC §5.30**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.30, concerning simulated flights. The section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules, contains the same definitions as §5.30.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. 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 Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

**§5.30. Simulated Flights.**

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-8805378      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

◆      ◆      ◆  
**• 34 TAC §5.32**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.32, concerning other travel expenses: reimbursable. The section is being repealed because the same subject matter is covered in the *State of Texas Travel Allowance Guide*, which has been adopted by reference as §5.22 of the comptroller's administrative rules, contains the same definitions as §5.32.

Ben Lock, director of the comptroller's economic analysis center, has determined that repeal of this section will not result in any fiscal implications to the state or to units of local government.

Mr. Lock also has determined that this change will benefit the public by having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §403.11, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

**§5.32. Other Traveling Expenses: Reimbursable.**

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-8805374      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

◆      ◆      ◆  
**• 34 TAC §5.33**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.33, concerning advance of funds for travel. This section is being repealed because the same subject matter is covered in the *State of Texas Allowance Guide* that has previously been incorporated by reference as §5.22 of the comptroller's administrative rules.

Ben Lock, director of the comptroller's eco-

nomc analysis center, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Lock also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher processing. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenny McLeskey, Director of Claims, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

**§5.33. Advance of Funds for Travel.**

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-8805373      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 4, 1988

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

◆      ◆      ◆  
**• 34 TAC §5.34**

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §5.34, concerning handicapped employees traveling within headquarters. This section is being repealed because the same subject matter is covered in the *State of Texas Allowance Guide* that has previously been incorporated by reference as §5.22 of the comptroller's administrative rules.

Ben Lock, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Lock also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be having state agencies adhere to a simplified set of administrative regulations and procedures when submitting travel vouchers for processing. The public will also benefit by having more effective and efficient travel voucher process-



[(2) "I certify that the information given on this form is true and correct."]

(e) (No change.)

(f) All forms for the report of decreased value by any property owner shall make provision for the following information on the back of the form:

(1) (No change.)

(2) the date the person from the tax office views the property subject to the report or, in the case of an oil and gas property, reviews the appraisal of the property.

(3) (No change.)

(g) Appraisal offices [and tax offices appraising property] failing to establish a form for the report of decreased value as required in this section may be judged to be in compliance upon a showing to the board that a form for the report of decreased value substantially equivalent to that required in this section has been established.

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 26, 1988.

TRD-8805415

Ron Patterson  
Executive Director  
State Property Tax Board

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-4802

## Chapter 165. Practice and Procedure

### General Provisions

#### • 34 TAC §165.61

The State Property Tax Board proposes an amendment to §165.61, concerning hearing procedures before the State Property Tax Board. The amendment deletes the requirement that the board's general counsel sit as designated hearings officer in an appeal under the Tax Code, Chapter 24.

Sands L. Steifer, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Steifer, 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 a more efficient allocation of agency resources in conducting hearings. 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 Ron Patterson, Executive Director, State Property Tax Board, P.O. Box 15900, Austin,

Texas 78761-5900.

The amendment is proposed under the Property Tax Code, §24.10, which requires the board to adopt rules implementing central appraisal of transportation business intangible property; the Education Code, §11.86, which required the board to provide by rule for appeals, hearings concerning its findings of school district market value; and Texas Civil Statutes, Article 6252-13a, which requires a state agency to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available concerning administrative action.

§165.61. *General Provisions Concerning Protest Hearings.* The following rules of practice shall be observed in all protests, hearings, and other similar proceedings before the State Property Tax Board or its designee.

(1) Hearings panel or officer. The proceedings will be conducted by the board or its designee. The designee of the board shall have the authority to receive and consider all evidence, to make findings of fact, and to recommend decisions to the board. If a designee for any reason is unable to continue in a proceeding, another designee will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceeding in the case. [For protests arising under Chapter 24 of the Property Tax Code, the board's designee is the general counsel of the board unless the board directs otherwise.]

(2)-(8) (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 26, 1988.

TRD-8805416

Ron Patterson  
Executive Director  
State Property Tax Board

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-4802

## Business Intangible Value Appeals

#### • 34 TAC §165.81

The State Property Tax Board proposes an amendment to §165.81, concerning protests arising from intangibles or rolling stock. The amendment changes the deadline for submitting a protest of an intangibles appraisal from June 10, to 10 days after the date the notice of intangible appraisal is delivered.

Mr. Sands L. Steifer, general counsel, has determined that there will not be fiscal implications as a result of enforcing or administering the section.

Mr. Steifer also has determined that for each

year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be a more efficient allocation of agency resources in conducting intangible protest hearings. 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 Ron Patterson, Executive Director, State Property Tax Board, P.O. Box 15900, Austin, Texas 78761-5900.

The amendment is proposed under the Property Tax Code, §24.10, which provides the board with the authority to adopt rules implementing central appraisal of transportation business intangible property; and Texas Civil Statutes, Article 6252-13a, which requires a state agency to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available concerning administrative action.

§165.81. *Protests Arising from Intangibles or Rolling Stock.*

(a) If the petition protesting the initial determination of the board arises from Chapter 24 of the Property Tax Code, a timely protest consists of a written statement of the grounds for protest [received by] filed with the board prior to the date of the hearing scheduled to hear such protests. The written grounds must be [received by June 10] filed within 10 days of the date that notice of determination of intangible value is delivered to the petitioner under the Property Tax Code, §24.09, and failure to present timely written grounds waives petitioner's entitlement to a redetermination.

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

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

Issued in Austin, Texas, on May 26, 1988.

TRD-8805417

Ron Patterson  
Executive Director  
State Property Tax Board

Earliest possible date of adoption: July 4, 1988

For further information, please call: (512) 834-4802

# Withdrawn Sections

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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*.

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## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 18. Organic Food Standards and Certification

##### 4 TAC §§18.9-18.14, 18.16, 18.28

The Texas Department of Agriculture has withdrawn from consideration for permanent adoption proposed §§18.9-18.14, 18.16, and 18.28, concerning organic food standards and certification which appeared in the March 1, 1988, issue of the *Texas Register* (13 TexReg 1063). The effective date of this withdrawal is May 26, 1988.

Issued in Austin, Texas, on May 26, 1988.

TRD-8805405      Dolores Alvarado  
Director of Hearings  
Texas Department of  
Agriculture

Effective date: May 26, 1988

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





Name: James Thomas  
Grade: 11  
School: Marshall High, Marshall

# 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 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 18. Organic Food Standards and Certification

#### 4 TAC §§18.1-18.8, 18.15, 18.17- 18.27, 18.29-18.38

The Texas Department of Agriculture adopts new §§18.1-18.38. New §§18. 1-18.4, 18.7, 18.8, 18.15, 18.17-18.24, 18.27, 18.29, 18.30, 18.33-18.37, and 18. 38 are adopted with changes to the proposed text as published in the March 1, 1988, issue of the *Texas Register* (13 TexReg 1063-1071).

New §§18.5, 18.6, 18.25, 18.26, and 18.31, are adopted without changes and will not be republished.

These sections are adopted to encourage the proper development of agriculture, horticulture, and related industries by guaranteeing the integrity of and expanding the in-state and out-of-state markets for organic food produced in Texas.

Section 18.1 is adopted with one new definition and clarifications of the proposed definitions of contaminated, field, producer, and retailer.

Section 18.2 is adopted with a clarification that certified persons must have a plan to discontinue their use of regulated practices.

Section 18.3 is adopted with a change permitting, rather than requiring, soil testing of fields to which off-farm manure has been applied.

Section 18.4 is adopted with the word or substituted for and between materials, and mined in §18.4(b)(2), to clarify that each material listed is prohibited, and with the word organophosphates deleted in §18.4(c)(3)(B), to clarify that soap phosphates only, not all organophosphorus compounds, may be used as regulated sources of phosphorus.

Section 18.7 is adopted with clarifications in §18.7(b)(3)(A) that fungicide-treated seed may be used only if untreated seed is not available, and in §18.7(e)(3)(B) that prohibited pesticides used in traps must be isolated from the environment at all times.

Section 18.8 is adopted with a change in §18.8(b)(7) permitting the use of natural biological controls to repel storage pests.

Section 18.15 is adopted with the proposed headings rearranged and with a clarification in §18.15(3)(A) concerning the sizes of reused containers.

Section 18.17 is adopted with changes in the title and with the insertion of the word permitted between the words other and ingredients

in §18.17(a)(2), to clarify that only permitted ingredients may be used during the processing of organic food.

Section 18.18 is adopted with changes in §18.18(b)(2) that establish the basis for deciding whether tested produce may be sold as certified organic. Proposed §18.18(b)(3) apportioning residue test costs between producers and TDA has been deleted as unworkable.

Section 18.19 is adopted with a new title, without the proposed §18.19(a), which is deleted as unworkable, and without the reference to livestock production units in proposed §18.19(b).

Section 18.20 is adopted with changes deleting unworkable language in proposed §18.20(b).

Section 18.21 is adopted with a change in §18.21(a), deleting an exhortation to producers to convert their whole farms.

Section 18.22 is adopted without the reference to livestock production units in proposed §18.22(b).

Section 18.23 is adopted without the references to livestock production units in proposed §18.23(a) and §18.23(b).

Section 18.24 is adopted without the references to livestock products in proposed §18.24(b).

Section 18.27 is adopted with the word farmer corrected to producer in §18. 27(d).

Section 18.29 is adopted without the references to livestock products in proposed §18.29(a) and §18.29(b).

Section 18.30 is adopted without the references to livestock in proposed §18.30(b)(3) and with farm plans added to the list of verification documents in §18.30(a).

Section 18.32 is adopted with nonsubstantive verbal changes.

Section 18.33 is adopted with changes in §18.33(f)(?) and §18.33(f)(3), clarifying that TDA will review this chapter at least annually in consultation with a six-member Certification Review and Standards Advisory Committee that includes one retailer or distributor of organic food.

Section 18.34 is adopted with clarifications that the Certification Review and Standards Advisory Committee need not review each application for certification and that the department bears final responsibility for all decisions pertaining to certification and recertification.

Section 18.35 is adopted with changes permitting rather than requiring TDA to refer cases for prosecution for violations and clarifying the grounds for revoking a certified per-

son's permission to use TDA's "Certified Organic" or "Organic Certification Pending--Transitional" logos.

Section 18.36 is adopted with changes deleting references to livestock production units.

Section 18.37 is adopted with changes deleting references to meat and poultry products and clarifying the conditions of use of the program's two logos.

Section 18.38 is adopted with changes clarifying that complaints may be lodged with TDA either orally or in writing, that TDA may notify complainants of investigation results and remedial actions by means other than a written report, and that TDA must maintain complaint and investigation records for four years.

The new sections define terms commonly used in the organic food industry, and set standards and procedures for certification and decertification of participating organic farms and of participating processors, distributors, and retailers of certified organic foods.

Producers, processors, distributors, and retailers seeking certification under this chapter will apply on the appropriate forms to the Consumer Services Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. TDA will evaluate applications, schedule and conduct inspections of farms and processing plants, and verify compliance through spot inspections, residue tests, affidavits, and recordkeeping requirements. TDA will also promote products bearing the department's "Certified Organic" and "Transitional Organic" logos in Texas and out of state.

TDA received 32 written comments about the proposed rule. Of these, 25 addressed the standards for livestock and seven addressed other standards. The department also received oral comments from 16 persons at a public hearing held in Austin on March 14, 1988. Most of these oral comments also concerned the proposed livestock standards.

Some opponents of the proposed livestock standards said they were too strict, that organic livestock products would be too expensive, and that certifying some products as organic would make shoppers think uncertified livestock products were unwholesome.

Most written comments on the livestock standards said they were not strict enough. These writers said stricter rules on the confinement of farm animals would further reduce the need for drugs, pesticides, and other chemicals in organic livestock production. Several people asked TDA to prohibit the use of battery cages for poultry and crates for sows and veal calves.

To consider all these views further, TDA is withdrawing the proposed livestock standards. The department will repropose new



livestock standards by August 1, 1988.

Many comments supported the new sections generally and stated that the sections would help Texas' farm economy, consumers, and environment.

One commenter proposed that TDA review this chapter annually in conjunction with the Certification Review and Standards Advisory Committee. This change is incorporated in the final version of §18.33(f)(2).

A second commenter proposed that TDA insert the word only in two places, between labels and from at §18.37(c)(4), and between logo and from at §18.37(c)(5), to clarify that certified retailers and producers may buy labels and other materials bearing a TDA logo only from approved printers. TDA agrees that such a limitation will protect consumers by reducing the potential for misuse of labeling materials. The final rule incorporates the proposed changes.

The writer also proposed that TDA adopt rules governing interstate shipments and out-of-state sales of Texas organic food products, to protect out-of-state buyers of these products. TDA disagrees with this proposal, since the department lacks the necessary authority to extend the program outside of Texas.

Another commenter requested that the final rule define biological control. The final rule does so in §18.1.

The writer of this comment also stated that the cost of the soil-testing requirement in §18.22(b) might keep some organic producers from seeking certification. TDA disagrees. A soil test of the type recommended in §18.6(b) or equivalent is inexpensive—less than \$10 per sample in some cases. This cost is justified, because organic farming systems depend on building and balancing plant nutrients in soil. By measuring these nutrients, soil tests provide essential information about the progress of a producer's soil-building program.

Another commenter asked TDA to specify that organic hydroponic farming was certifiable under the proposed section. The writer stated that such a system would use only natural growing media (e.g., gravel, sand, or pumice) and only growing practices permitted under the proposed rule.

TDA believes that nothing in the section as proposed would keep the system described in the comment from being certified, and that no change is needed to include it.

Another comment opposed the proposed section and alleged that the word organic as used therein was deceptive, since plants do not grow from organic material but from inorganic salts. The writer asked TDA to delay implementation and to choose a different word to describe the production system certified under the proposed section.

TDA disagrees. The word "organic," as applied to agricultural production systems, characterizes neither the chemical form in which nutrients are taken up by plants, nor the chemical form in which nutrient-bearing materials are added to soil. Rather, by longstanding convention, organic refers to production systems that use fertilizers and pesticides from natural animal, vegetable and mineral sources, but do not use synthetic chemical fertilizers or pesticides.

Another commenter suggested that the proposed section require the department to test samples of organic food collected at retail to obtain baseline residue data.

TDA agrees that such information is needed. The department plans to do a limited amount of residue testing of randomly collected retail samples in 1988.

Finally, another comment supported the standards and asked the department to set specific numerical standards for water contamination and soil salinization.

TDA agrees that such numerical standards are desirable and that government and the organic food industry should work to set them. To date, however, no public or private United States certifier has done so, because adequate information is lacking. The United States Environmental Protection Agency, for example, has no information or standards on contaminants in soil.

TDA's section does include safeguards against the adulteration of certified crops by soil or water-borne contaminants. These safeguards are detailed in §§18.7(c), 18.18(a) and (b) of the section.

Comments in favor of the proposed sections were submitted on behalf of the following groups and associations: Consumers Union, Randall's Food Markets, Whole Foods Market, Public Citizen of Texas, Natural Food Associates, Organic Food Network, Texas Health Distributors, Texas Humane Information Network, Gardenville of Austin and San Antonio, Animal Rights Kinship, Inc., and Food Animal Concerns Trust.

Comments against the proposed sections were submitted on behalf of the Texas Pork Producers Association.

Comments both in favor and against the proposed sections were submitted on behalf of the Texas Poultry Federation and the Texas Agricultural Extension Service.

The new sections are adopted under the Texas Agriculture Code, Title 2, Chapter 12, §12.002, which provides the Texas Department of Agriculture with the authority to encourage the proper development of agriculture, horticulture, and related industries, and the Texas Agriculture Code, Title 2, Chapter 12, §12.016, which authorizes the department to adopt rules as necessary for the administration of §§12.001-12.015 of the code.

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

**Allelochemic**—A naturally occurring substance significant to organisms of a species different from that of its source, for reasons other than food as such.

**Basic slag**—An alkaline byproduct consisting of nonferrous metals, trace minerals, and other minerals bonded chemically with oxygen or other chemical components of limestone or dolomite during smelting of iron ore and whose main constituents are lime, magnesia, silica, alumina, manganese oxide, iron oxide, and sulfur; basic slag may also contain small amounts of boron,

sodium, molybdenum, tin, vanadium, copper, zinc, titanium, potassium, strontium, chromium, zirconium or other trace elements important in plant nutrition.

**Biological control**—A natural parasite, predator, or pathogen that maintains a pest population at a lower average density than would otherwise occur.

**Commingled**—Inseparably mixed or interspersed with other food and not distinguishable from it.

**Contaminated**—As applied to food or feed, unfit for use because of the presence in illegal quantities of toxic, synthetic, or other prohibited substances; as applied to irrigation water or soil, unfit for use because of the presence in the resulting crop of illegal quantities of toxic, synthetic, or other prohibited substances.

**Cover crop**—A crop planted, usually in late summer and fall but also at other times, primarily to cover the soil surface, prevent erosion, and recover nutrients from the subsoil.

**Department**—The Texas Department of Agriculture (TDA).

**Distributor**—A person who is engaged in the business of selling food for resale, including, but not limited to, a wholesaler, broker, packer, repacker, shipper, or agent.

**Farm**—All agricultural land that is leased, owned, or otherwise held by and under the management of a certified producer or applicant for certification.

**Farm plan**—All documents relevant to the current and future management of an organic farm, including but not limited to, written plans to rotate crops, build humus, and stabilize soil nutrients.

**Farm unit**—All agricultural land in a contiguous tract that is leased, owned, or otherwise held by and under the management of a certified producer or applicant for certification and that adjoins no other land leased or owned by or under the management of the producer or applicant.

**Field**—A tract of agricultural land leased, owned, or otherwise held by and under the management of a certified producer or applicant for certification.

**Green manure crop**—A crop planted primarily to be plowed under to increase soil tilth and fertility.

**Guano**—The droppings, dead bodies, and other residues from bat colonies in caves or in regions without rain.



**Julian date**—A calendar date expressed by a decimal number, three consecutive digits of which indicate the day of the year in a series from 001 (= January 1) to 365 (= December 31 of a nonleap year) or 366 (= December 31 of a leap year).

**Logo**—The copyrighted Texas Department of Agriculture Certified Organic and Texas Department of Agriculture Organic Certification Pending—Transitional logotypes.

**Low ecological profile**—As applied to a soil-, crop-, or pest-management practice, means a practice that has a low degree of or no adverse effects on soil, water, or air quality.

**Manuring**—The application to soil of the excreta of agricultural animals, including stable litter and paunch wastes, or the plowing under of uncomposted plants (green manure crops) to increase tilth and fertility.

**Organic farming**—A system of ecological soil management that relies on building humus levels through crop rotations, recycling organic wastes, and applying balanced mineral amendments and that uses, when necessary, mechanical, botanical, or biological controls with minimum adverse effects on health and the environment.

**Organic food**—Food that is produced under a system of organic farming and that is processed, packaged, transported, and stored so as to retain maximum nutritional value without the use of artificial preservatives, coloring or other additives, ionizing radiation, or synthetic pesticides.

**Pheromone**—A substance that is secreted by an organism to the outside and that causes a specific reaction in a receiving organism of the same species.

**Processor**—A person who is engaged in the business of manufacturing raw agricultural commodities into food products.

**Producer**—A person who is engaged in the business of growing or producing food or feed.

**Proper tillage**—Tillage that promotes the free movement of air (carbon dioxide, oxygen and nitrogen) and water through the soil and facilitates biological decay processes within the soil raw manure--agricultural animals' excrement, both solid and liquid, that has not been aged, aerated, composted, fermented, aerobically digested, or otherwise humified or processed in such a way as to improve its value as a biological activator.

**Retailer**—A person, other than the

operator of a restaurant, who is engaged in the business of selling food at retail to its ultimate consumer.

**Semiochemical**—A pheromone, allelochemic, or other naturally occurring substance involved in the chemical interaction between organisms.

**Soil health**—A condition in which minerals, organic matter (e.g., humus, bacteria, fungi, etc.), water, and air coexist free of toxic contaminants, in proportions and with a profile, texture, structure, and porosity capable of supporting vigorous plant growth.

**Toxin**—A chemical, drug, radiological agent, or biological agent that is present in an amount sufficient to cause significant adverse effects in humans, crops, livestock, other beneficial organisms, or the environment.

**§18.2. Organic Production Practices.** For the purposes of this chapter, production practices are classified as permitted, prohibited, or regulated by the department.

(1) Permitted and prohibited practices apply statewide.

(2) Regulated practices may vary from region to region as specified in this chapter.

(3) The department may approve the temporary use of regulated practices upon demonstrated need, if a farm plan or other written plan submitted by a certified person or an applicant for certification shows that these regulated practices will be discontinued over time.

**§18.3. Soil Management.** Fertility must be fostered primarily by managing the soil's organic content through proper tillage, crop rotation, and manuring.

(1) **Tillage.** Tillage systems must incorporate crop residues and other organic wastes into topsoil. Farming that minimizes or eliminates tillage, such as mowing, grazing, or permacultural systems, is permitted.

(2) **Crop rotation.** Producers must rotate according to a written rotation plan all crops that are not

(A) perennials;

(B) included in permaculture systems;

(C) grown in containers; or

(D) grown on a nonrotating basis in accordance with accepted regional organic practices.

(3) **Rotation plan.** A rotation plan may include:

(A) alternation of sod and row crops;

(B) nitrogen-fixing crops;

(C) green manure crops;

(D) cover and nurse crops;

(E) deep-rooting crops;

(F) alternation of heavy and light feeders; or

(G) plants with allelopathic or mineral-accumulating properties.

(4) **Manuring.**

(A) Raw manure may be applied to:

(i) green manure crops;

(ii) perennial crops;

(iii) crops not for human consumption; or

(iv) crops for human consumption, if the crop is harvested 120 days or more following the most recent application.

(B) Use of manure composted either by aerobic digestion (high heat) or controlled fermentation (low heat) is permitted.

(C) Use of liquid manure slurry is permitted if the slurry is aerated from a source that adds carbon to the slurry.

(D) **Testing.** The department may require that the soil and subsoil of all fields to which substantial amounts of manure from off-farm sources are applied be tested for heavy metals, herbicides, or other suspected contaminants.

**§18.4. Soil Amendments and Fertilizers.**

(a) **Additives.** Mineral or other additives must enhance soil health as well as promote plant growth.

(b) **Nitrogen.**

(1) **Sources permitted.** A producer may use as a source of nitrogen: green manures, nitrogen-fixing or cover crops, composted materials, nitrogen-fixing microorganisms, and other methods of supplying plants with nitrates at low concentrations.

(2) **Sources prohibited.** Except as specified elsewhere in this chapter, a producer may not use as a source of nitrogen: anhydrous ammonia, ammonium nitrate, sewage sludge, contaminated organic materials, or mined or synthetic sources of

soluble nitrates at high concentrations for the sole purpose of increasing production.

(3) Sources regulated. Before using any supplemental nitrogen, a producer must ascertain that it is free of contamination. Evidence that the material is not contaminated must be available to the department on request. If supplemental nitrogen is needed, the following materials may be used in the context of an overall farm plan:

(A) vegetable meals;

(B) hides, blood meal, or meals made of other animal byproducts; or

(C) fish emulsion.

(4) Sources regulated, one-time use. To start a soil-building program, transitional producers only may use no more than one of the following materials one time only on each field, to start a green-manure crop:

(A) sodium nitrate;

(B) potassium nitrate;

(C) urea; or

(D) ammonium sulfate.

(c) Phosphorus

(1) Sources permitted. A producer may use as a source of phosphorus colloidal, soft-rock, and hard-rock phosphate; bone meal; bat guano.

(2) Sources prohibited. A producer may not use as a source of phosphorus: ordinary or triple superphosphate or other excessively soluble and/or acidifying materials with a high salt index.

(3) Sources regulated. If supplemental phosphorus is needed, the following materials may be used as temporary measures in the context of an overall farm plan:

(A) food-grade orthophosphoric acid in foliar formulations and fish-emulsion processing;

(B) soap phosphates; or

(C) basic slag.

(d) Potassium.

(1) Sources permitted. A producer may use as a source of potassium: wood ashes; rock dusts (granite, feldspar, greensand); sulfate of potash magnesia (langbeinite); natural potassium sulfate; kainite; and recycled potassium-rich organic matter.

(2) Sources prohibited. A pro-

ducer may not use as a source of potassium: muriate of potash (potassium chloride) or other sources with excessive solubility, high salt index, and chloride content.

(3) Source regulated. If supplemental potassium is needed, potassium sulfate from industrial processes may be used as a temporary measure in the context of an overall farm plan.

(e) Calcium.

(1) Sources permitted. A producer may use as a source of calcium: agricultural limestone; agricultural gypsum (hydrated calcium sulfate); kiln dust; calcified seaweed; corn calcium; and calcium oxide.

(2) Sources prohibited. A producer may not use as a source of calcium: quicklime; or slaked or hydrated lime applied to the soil.

(3) Sources regulated. If supplemental calcium is needed, calcium-chloride-based foliar materials or ground oyster shell may be used as temporary measures in the context of an overall farm plan.

(f) Magnesium.

(1) Sources permitted. A producer may use as a source of magnesium: dolomitic limestone; kieserite; and sulfate of potash magnesia (langbeinite).

(2) Sources regulated. If supplemental magnesium is needed, Epsom salts (hydrated magnesium sulfate) may be used as a temporary measure in the context of an overall farm plan.

(g) Sulfur. Application to soil of elemental sulfur from mined sources is permitted.

(h) Micronutrients.

(1) Sources permitted. A producer may use as a source of micronutrients: liquid or powdered seaweed extract that is not chemically fortified; kelp meal; and rock powders.

(2) Sources prohibited. A producer may not use as a source of micronutrients: chemically fortified liquid or powdered seaweed extract; or excessive doses of any micronutrient.

(3) Sources regulated. If supplemental micronutrients are needed, the following materials may be used as temporary measures in the context of an overall farm plan:

(A) fritted trace elements or chelated minerals;

(B) acid-treated (sulfate or oxide) zinc, boron, copper, iron, manganese, or molybdenum; or

(C) fish emulsions.

### §18.7. Crop Management.

(a) Conformity to recognized organic practices. Plant materials; irrigation; and weed, pest, and disease controls must conform to recognized organic practices.

(b) Seeds and seedlings. Producers should use plant materials produced without synthetic pesticides. Other materials may be used if justified and authorized in writing by the department.

(1) Permitted. A producer may use:

(A) organically produced or untreated seeds and seedlings;

(B) nontoxic seed treatments such as hot water;

(C) legume inoculants; or

(D) fungicide-free pelletization.

(2) Prohibited. A producer may not use:

(A) synthetic fungicides, pesticides, or soil fumigants on any seedlings or plant materials produced on-farm for organic production;

(B) materials or practices that are prohibited elsewhere in this chapter, on seeds or seedlings; or

(C) sterilization of greenhouse soils at temperatures higher than 180° F.

(3) Regulated. If justified and approved in writing by the department, a producer may use:

(A) synthetic-fungicide-treated seeds, unless authorized by the department;

(B) seeds, seedlings, cuttings, sets, grafting stock, root stock, or other plant materials produced without the use of synthetic fungicides or pesticides, but fertilized non-organically;

(C) commercial soil mixes, vermiculite, or other media containing small amounts of soluble fertilizers for farm-produced seedlings;

(D) plant materials to which a synthetic pesticide has been applied, provided these plant materials produce no crop that is harvested or sold within 36 months of transplanting.

(c) Irrigation.

(1) In areas where irrigation is necessary, an initial application for certification must include analyses of water quality and soil salinization.

(2) The producer's overall farm plan must address any problems revealed by these analyses.

(3) As a condition of recertification, a producer with a demonstrated water-quality or soil-salinization problem must:

(A) retest for water quality or soil salinization the following year; and

(B) submit tissue-test results for at least one edible crop each year until no residue from contaminated water is found in the crop, and at least every third year thereafter.

(4) Exceptions. Use of irrigation water that is known to be contaminated with toxic substances is prohibited. A producer may apply for and the department may grant written exceptions to this paragraph if:

(A) no other water is available; and

(B) no toxic residues from contaminated water are present in certified crops, as determined by at least one tissue test per farm per year until no residue from contaminated water is found in the crop, and at least every third year thereafter.

(d) Weed control.

(1) Permitted. A producer may use: timely mechanical or hand cultivation; crop rotations and use of smother crops; mulching with organic materials or inter-crop plant species such as white clover; practices that prevent introduction of weed seeds into fields, such as mowing borders, cleaning equipment, and use of weed-free inputs; electrical or flame weeding equipment; biodynamic preparations; mowing; and grazing.

(2) Prohibited. A producer may not use: synthetically compounded or petroleum-distillate herbicides; synthetic growth regulators; or micronutrients at toxic levels to kill weeds in crops that tolerate excesses, such as boron in beet production.

(3) Regulated. If justified and approved in writing by the department in advance, a producer may use:

(A) plastic mulches; or

(B) mulches made of recycled newspapers.

(d) Pest control. Pest prevention must be a primary consideration in planning production schedules, choosing crops, locating and sizing plantings, and deciding soil-

management practices. If prevention fails, only control methods with low ecological profiles may be used.

(1) Permitted. A producer may use:

(A) preventive management, such as planting resistant varieties, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations, and avoidance of excessive fertilization;

(B) mechanical or electrical controls, including traps, repellent crops and apparatus, vacuuming, water jets, physical barriers, and sound;

(C) biological controls, such as release of natural predators and parasites and manipulation of the habitat, supplemental food, and/or hosts of natural predators and parasites;

(D) sprays and dusts of low ecological profile, including insecticidal soaps, rock powders and diatomaceous earth, herbal preparations, dormant oil sprays in orchards, and solutions of pureed arthropods or plants such as hot peppers or garlic;

(E) microbial and viral diseases such as *Bacillus thuringiensis*, provided no petroleum-based synergists or carriers are used;

(F) pheromones used in traps and as mating disruptives;

(G) other semiochemicals, including pheromones and allelochemicals, in an ecologically sound manner for desired direct or indirect manipulations of pests (attractants, deterrents, repellents, locomotor stimulants, etc.);

(H) electrical devices; or

(I) shooting.

(2) Prohibited. A producer may not use:

(A) synthetically compounded pesticides, including insecticides, nematicides, acaricides, rodenticides, molluscicides, or ovicides; or

(B) natural poisons that have long-term effects and persist in the environment, such as arsenic or lead salts.

(3) Regulated. If justified and authorized in writing by the department, a producer may use:

(A) botanical insecticides, such as pyrethrum, rotenone, sabadilla, quassia, and ryania; or

(B) traps containing prohibited pesticides, if these pesticides do not contact and are not added to soil or water.

(f) Disease control.

(1) Disease prevention must be a consideration in planning production schedules, choosing crops, locating and sizing plantings, and deciding soil-management practices.

(2) In greenhouses, ventilation, humidity, and temperature must be controlled to reduce plants' susceptibility to disease.

(3) Permitted. A producer may use:

(A) preventive management, such as planting resistant varieties, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations, and avoidance of excessive fertilization; or

(B) herbal or plant-derived controls and mineral preparations not prohibited or regulated elsewhere in these standards.

(4) Prohibited. A producer may not use synthetic fungicides, fumigants, synthetic sterilizing agents, or synthetic bactericidal agents.

(5) Regulated practices. If justified and authorized by the department, a producer may use:

(A) copper and sulfur-based fungicides, including Bordeaux mixture, tribasic copper formulations, cupric oxide, copper sulfate, elemental and liquid sulfur, and lime sulfur (calcium polysulfide);

(B) chlorine bleach in dilute solutions as a disinfectant; or

(C) micronutrients such as zinc, provided care is taken to avoid toxic overdoses.

*§18.8. Post-Harvest Handling.*

(a) Methods of harvesting, storing, transporting, and marketing organic foods must insure freshness and nutritional quality.

(b) Permitted. A producer, shipper, packer, or other handler of organic food may:

(1) harvest crops only at proper maturity and in appropriate weather conditions;

(2) handle perishable items only so as to avoid injuring them physically;

(3) dry and cure field crops to appropriate moisture levels by natural field drying, aeration, or other mechanical drying apparatus;

(4) chill perishable crops by means of uncontaminated water baths, cold rooms, or icing, and maintain constant low temperatures at every stage of transportation and distribution;

(5) use controlled-atmosphere (carbon dioxide or nitrogen) storage;

(6) disinfest crops of spoilage organisms or fruit flies by hot-water dipping or vapor-heat treatments;

(7) repel storage pests with non-toxic materials such as rock powders, diatomaceous earth, herbal preparations, or natural biological controls; and

(8) monitor tissue nitrate levels in leafy crops grown under low light conditions.

(b) Prohibited. A producer, shipper, packer, or other handler of organic food may not apply to certified products at any point during post-harvest handling, transportation, or storage:

- (1) synthetic fumigants
- (2) sprouting inhibitors, ripeners, or growth regulators;
- (3) preservatives;
- (4) coloring agents;
- (5) ionizing radiation; or
- (6) waxes (except beeswax) or oils.

(c) Regulated. If justified and approved in advance by the department in writing, a producer, shipper, packer, or other handler of organic food may:

(1) apply specifically named disinfectants to storage containers and handling equipment. In such cases, the department may require a waiting period that must expire before the handler uses the container or equipment for certified food;

(2) apply specifically named post-harvest sulfur-based fungicides or botanical insecticides.

**§18.15. Handling and Processing of Organic Crops.** To insure that organically produced food is certifiable at retail, processors, packagers, manufacturers, and distributors must adhere to a verifiable program.

(1) Cleaning and milling of grains, beans, and seeds.

(A) Certified commodities must meet United States and Texas government inspection standards. Before packaging or processing, all commodities must be mechanically cleaned to remove weed seeds, stones, straw, insects, dust, metal, and dirt.

(B) Crops must be dried by natural field drying, bin aeration, or artificial drying at moderate temperatures.

(C) processing facilities must meet all applicable federal, state, and local health requirements.

(D) Processed flour must not exceed 55 degrees (131 degrees Fahrenheit) as it leaves the milling stones.

(E) Chemical additives, such as preservatives, antioxidants, bleaches, or stabilizers, are prohibited.

(2) Packaging.

(A) All packaging material must be free of fungicides, preservatives, and other chemical additives.

(B) All milled products must indicate the lot number and the date of processing. This date may be shown as a Julian date or as a month, day, and year.

(3) Storage and transportation.

(A) Bags or other containers used to ship organic food must not have been used for any substance that could compromise the organic quality of the product. Reused containers must be of standard size for the commodity contained therein and must be provided with suitable protective liners.

(B) Storage areas for organic food must be ventilated and sealed or otherwise protected from encroachment by birds, rodents, or other pests.

(C) Diatomaceous earth, *Bacillus thuringiensis*, or other natural biological controls may be used in storage areas or during transportation.

(4) Raw ingredients and additives.

(A) Sources. Each primary ingredient of any processed product sold as organic must be from a certified organic source. Labels must specify whether ingredients from other sources are used.

(B) Permitted. A processed product sold as organic may include:

(i) only ingredients from certified organic sources, except ingredients that are not agricultural products, such as salt or wild foods;

(ii) yeasts or other microbial cultures; or

(iii) minimal levels of natural sweeteners or salt.

(C) Prohibited. A processed product sold as organic may not include:

(i) synthetic preservatives, coloring, flavoring, texturizers, emulsifiers, or additives of any kind;

(ii) ingredients known to contain excessive levels of nitrates, microelements, heavy metals, or toxic residues; or

(iii) added sulfites, nitrates, or nitrites.

(D) Regulated. A processed product sold as organic may include the following ingredients if a processor documents to the department's satisfaction a claim that the ingredients are necessary to market the product:

(i) natural sweeteners or salt, including organically produced honey, maple syrup, or other natural sweeteners, in Organic Food Standards and Certification amounts greater than those necessary for processing; or

(ii) natural preservatives, coloring agents, or other additives, such as natural ascorbic acid or beet juice.

**§18.17. Other processing Methods.**

(a) Permitted. Food may be processed using:

(1) appropriate bacterial cultures or fermentation systems;

(2) organically grown fruit, plant extracts, natural sweeteners, herbs, spices, or other permitted ingredients;

(3) sea salt or brine preparations; and

(4) freezing, drying, vacuum packing, heat processing, or wood smoking if the wood has not been treated with synthetic chemicals

(b) Prohibited. Food may not be processed using synthetic preservatives, coloring, flavoring, texturizers, emulsifiers, additives of any other type (except vitamin fortification required by state or federal laws), or in aluminum containers.

(c) Regulated. Food may be processed using aluminum spoons, ladles, or other aluminum utensils if stainless-steel utensils are not available.

**§18.18. Laboratory Analysis.**

(a) Residue testing. The department shall require tests of produce that it has reasonable cause to suspect may have become contaminated.

(1) These tests shall include an analysis of nitrate content if the produce was grown using supplemental nitrogen sources or under low light conditions.

(2) The department may also re-

quire other residue tests for crop-improvement and enforcement purposes.

(b) Use of residue-test results.

(1) The producer of tested produce and the department shall use test results to improve farming practices and as technical data to support enforcement cases and policy review.

(2) The department shall allow tested produce to be marketed as certified organic if test results show no contamination.

(c) Nutritional testing The department may assist producers who wish to document the nutritional contents of organically grown food.

**§18.19. Transfer of Certification.** Certification is of farms, farm units, and fields, and is transferable upon reapplication, reinspection, and compliance with all other applicable provisions of this chapter.

**§18.20. Farm Certification.**

(a) Whenever possible, the department shall certify whole farms.

(b) An applicant for certification must document a clear intent to manage a farm organically.

(1) This documentation shall be in the form of a detailed, three-year farm plan that has been reviewed and accepted by the department.

(2) A farm plan must include:

(A) a three-year rotation plan for each field, as applicable;

(B) a three-year plan to stabilize nutrients in the soil of each field; and

(C) a 25-foot buffer zone separating land managed organically from other cultivated agricultural land.

**§18.21. Farm-Unit or Field Certification.**

(a) The department may certify farm units or individual fields.

(b) Documentation for farm-unit or field certification shall be in the form of a detailed, three-year farm plan that has been reviewed and accepted by the department.

(c) The farm plan must include:

(1) three-year rotation and nutrient-stabilization plans for each field under organic management;

(2) one-year, field-by-field crop and spray plans for each field of the farm that is adjacent to an organically managed field but is not managed organically;

(3) a 25-foot buffer zone separating land managed organically from other cultivated agricultural land;

(4) a description of facilities and methods that will be used to keep farm

equipment from contaminating organically managed fields; and

(5) a description of facilities and methods that will be used to store and handle prohibited materials separately from permitted and regulated materials.

(d) A crop grown in an organically managed field any part of which is located within 50 feet of a field to which a prohibited pesticide has been applied must be tissue-tested for residues of that pesticide before the harvest of the organic crop.

(e) The department shall not certify part of a farm unless:

(1) there exist distinct, defined boundaries between fields under organic management and other fields; and

(2) the proposed acreage will be used for a bona fide trial of organic management methods.

(f) The department may not certify land that has no previous history as cultivated cropland, orchard, or improved pasture, and that is being converted to organic production for the sole purpose of replacing land abandoned because of chemical contamination or depleted fertility resulting from previous farm-management practices.

**§18.22. Transitional Periods.**

(a) The department may certify land as organically managed only if harvest occurs at least three years after the most recent use of a prohibited pesticide and at least two years after the most recent use of a prohibited fertilizer.

(b) An applicant for certification must present soil-test results for each field or greenhouse unit to be certified initially and every third year thereafter.

(c) An applicant must also present the results of water, residue, and plant-tissue tests as required by the department.

**§18.23. Recertification.**

(a) If any part of a certified field or farm unit is taken out of organic management, it may be recertified after passage of three years without the application of a prohibited pesticide and two years without the application of a prohibited fertilizer or other prohibited material (b) Produce from such a field or farm unit may not be sold under a Texas Department of Agriculture transitional label.

**§18.24. Transitional Labeling.**

(a) Except as prohibited elsewhere in this chapter, producers of plant crops who have satisfied all requirements for certification except passage of the required transitional period may market their produce under a Texas Department of Agriculture transitional label.

(b) This transitional label may not use the terms certified or "Texas Department of Agriculture Certified Organic," but shall include the phrase "Organic Certification Pending--Transitional."

**§18.27. Separation of Produce.**

(a) A producer of both organic produce and other produce on the same farm must keep separate records for each of these two categories of produce.

(b) A producer of the same crop or produce both organically and nonorganically on the same farm must prove to the department's satisfaction that he or she has in place physical facilities and management procedures adequate to ensure that there is no possibility of crop mixing or commingling.

(c) In the absence of such proof, no food of that type from that farm shall be certified or sold as TDA-certified organic.

(d) This section applies to uncertified produce produced by a certified producer on an uncertified farm unit and to uncertified produce resold by a certified producer.

**§18.29. Availability of Records for Review.**

(a) Records of all laboratory analyses performed for a farm, including soil tests, plant-tissue tests, forage tests, bacteria counts, and residue tests for toxic contaminants in soil, water, or crops must be available for review by the department.

(b) Tests performed on any crop must be identified so as to enable tracing of the product from its original source through the chain of sale and distribution.

**§18.30. Verification Documents**

(a) Documents included Verification documents consist of questionnaires, farm plans, affidavits, inspection reports, laboratory analyses, and documents showing the path taken by an organic food product through post-harvest handling and distribution.

(b) Farm questionnaire The department shall devise a questionnaire to be completed by applicants for certification The questionnaire shall require information about:

(1) farm size, number of fields, equipment available, and a map showing field and building locations;

(2) a three-year history, current expected production, and management plan for each field;

(3) rotation and soil management plans; and

(4) intended changes or improvements in farm management.

(c) Product specifications.

(1) Food processors.

(A) The department shall devise a questionnaire covering all nonfarm aspects of food processing and manufacturing, if applicable.

(B) Processors must com-

plete a questionnaire at each stage where a food is substantially changed from its previous state.

(C) This questionnaire shall cover every aspect of the product relevant to the department's certification standards.

(2) Farm-input manufacturers.

(A) The department shall devise a similar questionnaire for manufacturers of soil amendments, foliar treatments, pesticides and similar materials.

(B) In combination with appropriate laboratory analyses, products whose use is regulated under certification standards may gain permitted status.

(d) Producer/processor affidavits and agreements.

(1) The department shall devise affidavits and agreements for producers, processors, and manufacturers.

(2) These affidavits and agreements shall include signed statements that the information provided is accurate.

(3) These documents must be notarized.

(e) Inspection reports.

(1) The department shall conduct at least one on-site inspection per year of every farm or processing facility for which a questionnaire is needed.

(2) These inspections shall be reported on a form signed by the inspector that includes the following information:

(A) observations about the condition of the farm or processing facility;

(B) comments about the use of restricted or prohibited practices; and

(C) a judgment as to certifiability.

(f) Soil, nutritional, or residue analyses Results of required analyses must be included in the documentation for each application for certification.

(g) Texas Open Records Act coverage All verification documents and other certification records shall be subject to all provisions, including exemptions, of the Texas Open Records Act, Texas Civil Statutes, Article 6252.17a.  
*§18.32. Auditing.*

(a) The department may conduct or provide for audits of all documents that it uses to verify that certified products meet organic standards

(b) These audits shall include, where appropriate:

(1) a plant inventory audit, listing percent accuracy in labeling, the amount bought and sold per product and the producer or destination, and the number of vendors and amount of product per vendor, or

(2) a farm audit, listing the amounts sold per product, date and destination, and the area and location planted of each product, with dates of harvest.

(c) All audit records shall be subject to the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

(d) Information contained in audit records that is exempt under the Texas Open Records Act shall remain confidential. Such exempt, confidential information shall include but not be limited to:

(1) information that, if released, would give advantage to competitors or bidders; and

(2) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.

*§18.33. Application for Permission To Use the Texas Department of Agriculture "Certified Organic" Logo or the Texas Department of Agriculture "Organic Certification Pending--Transitional" Logo.*

(a) Application and approval required

(1) No person shall use, employ, adopt or utilize the TDA certified organic or transitional logo in the selling, advertising, marketing, packaging or other commercial handling of food and fiber products unless prior application has been made to the department for permission to make such use, employment, adoption or utilization and approval has been granted.

(2) An approved producer shall be certified for a period of one year and may renew his or her application annually.

(b) Application materials.

(1) The department shall develop materials that provide interested parties with a clear explanation of standards, fees, deadlines, requirements, and review processes.

(2) Prospective applicants for certification shall be sent these materials including an application, an initial questionnaire and affidavits described in §18.30 of this title (relating to Verification Documents).

(c) Submission of applications.

(1) Applications submitted under this section shall be in writing on a form prescribed by the department.

(2) A separate application shall be submitted for each farm, farm unit, processing plant, distribution facility, or retail operation.

(3) Applications and verification documents shall be submitted to Organic Program Specialist, Consumer Services Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

(d) Inspection.

(1) Upon receipt of an application and verification documents submitted by an applicant for certification as a producer or processor under this section, and after preliminary review by the department, an inspection shall be conducted by the department.

(2) The department shall inspect the plant or farm of each applicant who fulfills initial screening requirements.

(e) Certification of retailers and distributors.

(1) The department shall certify retailers and distributors who agree to comply with these standards and shall maintain a list of certified retailers and distributors.

(2) Retailers and distributors shall be certified on a one-time basis and are not required to renew their certification annually.

(3) Certified retailers shall conspicuously display a certificate of approval to sell TDA-certified organic food in each store where such food is offered for sale.

(4) The department shall supply retailers with reasonable quantities of approved signs, price cards, and shelf talkers at cost.

(5) The department shall inspect the premises of certified retailers and distributors to insure compliance with these standards.

(6) Fresh raw unpackaged food bearing a TDA logo shall be retailed in Texas only by the producer or by a TDA-certified retailer.

(7) Fresh raw unpackaged food bearing a TDA logo shall be distributed in Texas only by the producer or by a TDA-certified distributor.

(f) Certification review and standards advisory committee.

(1) The department shall appoint a Certification Review and Standards Advisory Committee which may, at the department's request, assist the department in reviewing applications for certification and shall advise the department on revisions to this chapter and administration of the Organic Food Standards and Certification program.

(2) Within one year of implementation of this chapter, and at least annually thereafter, the department, with the advice of the Certification Review and Standards Advisory Committee, shall review implementation of this chapter and propose amendments as necessary.

(3) The Certification Review and Standards Advisory Committee shall be made up of six members, of which two are organic producers; one is a processor of organic food, one is a technical advisor, agronomist, or horticulturist; one is a representative of consumers; and one is a retailer or distributor of organic food.

(4) Members of the Certification Review and Standards Advisory Committee should be familiar with both organic production methods and the department's organic food certification standards.

*§18.34. Action on Application.*

(a) The director, Consumer Services Program, Texas Department of Agriculture, within 60 days of receipt of an application for permission to use the TDA "Certified Organic" logo or the TDA "Organic Certification Pending-Transitional" logo, shall schedule an inspection of the applicant's operation.

(b) Within 90 days of receipt of all required verification documents, including inspection reports and the results of any required laboratory analyses, the department shall make an initial determination of whether such permission shall be granted or denied, and notify the applicant in writing, setting forth the reasons for such grant or denial.

(c) The department may ask the Certification Review and Standards Advisory Committee for recommendations as necessary during consideration of any application for certification.

(d) Any certification granted under this chapter to a producer or processor shall be for a period of one year.

(e) In cases of persons who rely on regulated practices or sources, the applicant shall bear the burden of establishing to the department's satisfaction:

(1) that these practices or sources are agronomically or scientifically required, and

(2) that the applicant has a plan to discontinue the use of regulated practices over a set period of time.

(f) If the applicant wishes to contest such initial determination, notice of protest shall be filed by the applicant with the director within 15 days of receipt by the applicant of notice of such initial determination. Notice of protest being timely filed, the application shall be considered as a contested case and a formal administrative proceeding shall be held before the department as provided for in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a and Chapter 1 of this title (relating to General Practice and Procedure).

(g) If a timely notice of protest is not filed, the initial determination shall become final.

(h) An application for permission to use the TDA "Certified Organic" or TDA "Organic Certification Pending-Transitional" logos may be denied if:

(1) the application or verification documents contain insufficient information upon which to make a determination;

(2) the application or verification documents demonstrate noncompliance with any provision of this chapter; or

(3) the applicant has had certification revoked under §18.35 of this chapter (relating to Termination of Permission To Use the Texas Department of Agriculture "Certified Organic" Logo or the Texas Department of Agriculture "Organic Certification Pending-Transitional" Logo) and has not shown to the department's satisfaction that he or she can and will comply with the provisions of this chapter.

*§18.35. Termination of Permission To Use the Texas Department of Agriculture "Certified Organic" Logo or the Texas Department of Agriculture "Organic Certification Pending-Transitional" Logo.*

(a) Permission granted by the department for the use of the Texas Department of Agriculture "Certified Organic" or the Texas Department of Agriculture "Organic Certification Pending-Transitional" logos may be revoked at any time if:

(1) a certified person fails to keep records required to verify proper use of the logo, as specified in this chapter; or

(2) a certified person fails to comply with any provision of this chapter.

(b) Proceedings for the revocation of permission to use the TDA "Certified Organic" or "Organic Certification Pending-Transitional" logos shall be conducted in the manner provided for contested cases by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a and Chapter 1 of this title (relating to General Practice and Procedure)

(c) TDA may refer to the applicable prosecuting attorney for prosecution under applicable civil and criminal codes, including the Texas Deceptive Trade Practices Act, any person who has violated or is violating any provision of this chapter or who misrepresents a product as certified.

*§18.36. Logos.* The department shall register two logos with the United States Department of Commerce as certification marks.

(1) Texas Department of Agriculture "Certified Organic" logo. One logo shall include the phrase "Texas Department of Agriculture Certified Organic" and shall take the following form:





(2) Use of "Certified Organic" logo. The Texas Department of Agriculture "Certified Organic" logo and the phrase "Texas Department of Agriculture Certified Organic" shall be applied or used to refer only to food produced on land that the department has certified under this chapter.

(3) Transitional logo. A second logo shall include the phrase "Texas Department of Agriculture Organic Certification Pending-Transitional" and shall take the following form:



(4) Use of transitional logo. The Texas Department of Agriculture "Organic Certification Pending-Transitional" logo shall be applied or used to refer only to food produced on land that the department classifies as in transition to organic certification under this chapter.

(5) Consumer information. The department shall produce and make available to consumers information about the logos and the TDA certification program, standards, and procedures.  
*§18.37. Use of Logos.*

(a) Conditions of use. A person certified under this chapter may use the TDA certified or transitional logo, whichever is appropriate, on containers, labels, tags, signs, stickers, decals, or other packaging, promotional or informational materials, subject to the conditions specified in subsections (b), (c), (d), and (e) of this section.

(b) Labeling of nonprocessed food for retail sale. The following conditions apply to the use of the logo on or around nonprocessed food items offered for retail sale:

(1) no hand-drawn TDA logo may appear on an in-store sign;

(2) no certified retailer or distributor, other than a packer, may purchase or apply pressure-sensitive labels bearing a TDA logo; and

(3) certified food may be labeled using:

(i) a label applied by a certified producer or packer;

(ii) a price card displaying a printed TDA logo; or

(iii) both of the labeling methods referred to in paragraphs (1) and (2) of this subsection.

(c) Approval of printers. The department shall approve printers to manufacture signs, price cards, shelf talkers, pressure-sensitive labels, and other labeling or packaging materials bearing a TDA logo and shall maintain a list of approved printers.

(1) From time to time, TDA shall furnish approve printers with a list of certified retailers and producers.

(2) Approved printers may sell materials bearing a TDA logo only to persons on this list.

(3) An approved printer shall maintain records of purchasers, quantities, types of materials, and dates of sale of all materials bearing a TDA logo and make these records available to the department on request.

(4) A certified retailer may purchase such materials (except pressure-sensitive labels) only from an approved

printer.

(5) A certified producer may purchase pressure-sensitive labels or packaging materials bearing a TDA logo only from an approved printer.

(d) Other conditions of retail sale. The following conditions apply generally to the retail sale of TDA certified organic products.

(1) A certified retailer may use a TDA-approved sign to identify only certified food produced in Texas by a TDA-certified producer.

(2) Certified retailers must have in place physical facilities and management procedures adequate to prevent commingling of TDA-certified organic food with other food.

(3) Products bearing a TDA logo must be easily identifiable to consumers and must be clearly distinguishable from similar products that are not TDA-certified organic.

(e) Accidental contamination or commingling. A retailer or distributor may not apply a TDA logo to or represent as TDA-certified organic food that is known to contain prohibited materials or that has been commingled with other food during distribution or stocking.

*§18.38. Enforcement and Complaint Investigation.*

(a) The department shall perform inspections of certified producers, processors, retailers, distributors, and applicants for certification at a time when normal production or sales activity can be observed.

(b) The department may conduct unannounced inspections in cases of suspected violations of standards.

(c) Any person with cause to believe that any provision of this chapter has been violated may file a written or oral complaint with the department setting forth the facts of the alleged violation.

(d) The department shall investigate each written or oral complaint related to certified organic food and provide the complainant with the results of the investigation and any remedial actions taken.

(e) The department shall maintain for four years records of all complaints, investigations, and remedial actions. These records shall become part of the reviewing record of any proceeding involving a certified person or applicant for certification.

(f) The department shall maintain a toll-free telephone number to provide information on filing of complaints and to provide general information regarding this chapter to consumers and the public at large.

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 26, 1988.

TRD-8805406

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Effective date: June 16, 1988

Proposal publication date: March 1, 1988

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

## TITLE 28. INSURANCE Part I. State Board of Insurance

### Chapter 1. General Administrative

#### Subchapter C. Maintenance Taxes

##### 28 TAC §1.406

The State Board of Insurance adopts new §1.406, without changes to the proposed text published in the April 22, 1988, issue of the *Texas Register* (13 TexReg 1969).

The new section is necessary in order to record rates of assessment for 1988 for maintenance taxes which the Insurance Code and the Texas Health Maintenance Organization Act require the board to determine annually on various types of insurance and related activities. Timely payment of the taxes is necessary to provide adequate support for the proper functioning of administrative regulation of insurance and related activities in Texas.

The new section assesses maintenance taxes for 1988 on the basis of gross premiums for calendar year 1987 or on some other statutorily designated basis. New §1.406 sets rates of assessment, and applies those rates to life insurance; motor vehicle insurance; casualty and fidelity insurance and guaranty and surety bonds; fire and allied lines insurance, including inland marine; workers' compensation insurance; title insurance; health maintenance organizations; third party administrators; and domestic and foreign risk retention groups. The new section provides for proper alternative assessment dates for collection of the designated maintenance taxes.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Articles 4.17, 5.12, 5.49, 5.68, 9.46, 21.07-5, and 21.54, and the Texas Health Maintenance Organization Act, §33, which provides authorization for the State Board of Insurance to assess maintenance taxes for the lines of insurance and related activities specified in the adopted new section.

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 25, 1988.

Effective date: June 15, 1988

Proposal publication date: April 22, 1988

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

## Chapter 15. Surplus Lines Insurance

### Subchapter A. General Regulation of Surplus Lines Insurance

#### 28 TAC§15.28

The State Board of Insurance adopts new §15.28, without changes to the proposed Texas as published in the April 19, 1988, issue of the *Texas Register* (13 TexReg 1904).

The new section concerns the use of surplus lines insurance by a licensee or an applicant for a license under the Private Investigators and Private Security Agencies Act. The new section is necessary in order to prevent disruption of the regulation of private investigators and private security agencies under Texas Civil Statutes, Article 4413(29bb), the Act. Recent amendment of the Act increases the amount of liability insurance required of licensees under the Act. The Act, §40, requires proof of liability insurance coverage for damages because of bodily injury. Even before the increase in the required amount, such liability insurance has not always been available from insurers licensed within this state.

The new section allows the use of surplus lines insurance written prior to September 1, 1989, for liability insurance coverage required under the Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 4413(29bb), §40(c), and Article 6252-13a, §5, and the Insurance Code, Article 1.04, which authorize the State Board of Insurance to determine policy and rules. Texas Civil Statutes, Article 4413(29bb), §40(c), provide for approval by the State Board of Insurance of the purchase from a surplus lines insurer of liability insurance coverage for applicants for licenses under the Private Investigators and Private Security Agencies Act. Texas Civil Statutes, Article 6252-13a, §5, prescribe the procedure for adoption of rules by any state administrative agency.

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 25, 1988.

Effective date: June 15, 1988

Proposal publication date: April 22, 1988

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

## Subchapter D. Surplus Lines Stamping Office of Texas

### 28 TAC §15.101

The State Board of Insurance adopts new §15.101, without changes to the proposed text as published in the April 22, 1988, issue of the *Texas Register* (13 TexReg 1970).

The new section is necessary to establish a plan of operation under which the surplus lines stamping office of Texas (the stamping office) may conduct operation. Recent legislation created the stamping office to provide closer record keeping and scrutiny of surplus lines insurance contracts.

The new section provides for creation, organization, operation, compensation, and reimbursement of a board of directors for the stamping office. The new section also provides for employment of a general manager who will be responsible for the operation and management of the stamping office in accordance with policy established by the board of directors for the stamping office. The new section provides for reporting and recording of surplus lines insurance business and for charging stamping fees from surplus lines agencies. The new section provides for indemnification of directors, officers, employees, and agents and also provides a procedure for dissolution of the stamping office. The new section explains functions of the stamping office including making inquiries, examining agents, reporting information to the commissioner of insurance, and other functions.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 1.14-2, §6A, which provides for approval by the State Board of Insurance of the plan of operation of the Surplus Lines Stamping Office of Texas.

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 25, 1988.

Effective date: June 15, 1988

Proposal publication date: April 22, 1988

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

## Part II. Industrial Accident Board

## Chapter 49. Procedures for Formal Hearings by the Board

### Special Formal and Other Investigative Hearings

#### • 28 TAC §49.125

The Industrial Accident Board adopts an amendment to §49.125, without changes to the proposed text published in the April 22, 1988, issue of the *Texas Register* (13 TexReg 1973).

The section is amended to reduce the notice to parties of special formal hearings before the board from 30 days to 14. This will expedite parties' access to a hearing before the board.

The amended section appears in undesignated heard "Special Formal and other Investigative Hearings," which regulates practice and procedure for investigative hearings.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8307, §4(a), which provide the Industrial Accident Board with the authority to adopt rules necessary to administer the workers' compensation act.

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

Issued in Austin, Texas, on May 26, 1988.

Effective date: June 16, 1988

Proposal publication date: April 22, 1988

For further information, please call: (512)  
448-7962

## Chapter 69. Medical Examination Orders

#### • 28 TAC §69.55

The Industrial Accident Board adopts an amendment to §69.55, without changes to the proposed text published in the April 22, 1988, issue of the *Texas Register* (13 TexReg 1973).

The section, as amended, establishes a procedure by which a carrier may apply to the board for an order suspending compensation when a claimant has failed to attend a board-ordered medical examination.

The section is part of Chapter 69, entitled "Medical Examination Orders," which defines rights and duties, and regulates procedures regarding board-ordered medical examinations of claimants by carrier-selected providers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8307, §4(a), which provide

the Industrial Accident Board with the authority to adopt rules necessary to administer the workers' compensation act.

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

Issued in Austin, Texas, on May 26, 1988.

TRD-8805412      Scott McAnally  
Executive Director  
Industrial Accident Board

Effective date: June 16, 1988

Proposal publication date: April 22, 1988

For further information, please call: (512) 448-7962

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department

#### Chapter 55. Law Enforcement

##### Operation Game Thief Fund

###### 31 TAC §§55.111, 55.114, 55.115

The Texas Parks and Wildlife Department (Operation Game Thief Committee), adopts amendments to §55.111 and §55.114, and new §55.115 without changes to the proposed text as published in the March 29, 1988, issue of the *Texas Register* (13 TexReg 1493). These sections were adopted on an emergency basis November 23, 1987, (12 TexReg 4323). The amendments and new section provide improved operating procedures for the payment of rewards and maintenance of records in the Operation Game Thief Program.

The sections are adopted to comply with the provisions of House Bill 1195, Acts of the 70th Legislature, Regular Session.

The committee adopted on a permanent basis the sections to the Operation Game Thief regulations that are consistent with the legislature's intent and purpose of the Operation Game Thief Program. The sections authorize the committee to delegate limited disbursements of rewards in a more timely manner and to create limitations on unclaimed rewards to alleviate an auditing problem. The sections will enhance the program and will provide an additional deterrent to poaching.

No comments were received regarding adoption of the amendments and new section.

The sections are adopted under the authority of the Parks and Wildlife Code, Chapter 12, Subchapter C, which provides the Operation Game Thief Committee with the authority to adopt rules for the implementation of the Operation Game Thief 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 25, 1988.

TRD-8805346      Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: June 15, 1988

Proposal publication date: March 29, 1988

For further information, please call: (512) 389-4626

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. State Sales and Use Tax

###### • 34 TAC §3.330

The Comptroller of Public Accounts adopts new §3.330 concerning data processing services without changes to the proposed text as published in the March 8, 1988, issue of the *Texas Register* (13 TexReg 1179).

During the last special session of the 70th legislature, data processing was added to the Tax Code, Chapter 151, as a taxable service effective January 1, 1988. This new section is needed so that persons involved in the activities described as data processing will be aware of their sales tax responsibilities.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 24, 1988.

TRD-8805360      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: March 8, 1988

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

### Chapter 5. Funds Management (Fiscal Affairs)

#### Claims Processing-Travel Vouchers

###### • 34 TAC §5.22

The Comptroller of Public Accounts adopts an amendment to §5.22, without changes to the proposed text published in the February 19, 1988, issue of the *Texas Register* (13 TexReg 873).

The amendment was necessary so that the new edition of the *Travel Allowance Guide*, which was published by the comptroller on September 1, 1987, can be incorporated by reference as a section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

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 24, 1988.

TRD-8805359      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: February 19, 1988

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

### Claims Processing-Purchase Vouchers

###### • 34 TAC §5.51

The Comptroller of Public Accounts adopts an amendment to §5.51, without changes to the proposed text as published in the February 19, 1988, issue of the *Texas Register* (19 TexReg 873).

The amendment updated and clarified the definitions of certain terms used in §§5.51-5.55.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

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-8805362      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: June 16, 1988

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

###### • 34 TAC §5.52

The Comptroller of Public Accounts adopts an amendment to §5.52, with changes to the proposed text as published in the February 19, 1988, issue of the *Texas Register* (13 TexReg 874).

The amendment is necessary in order to conform §5.52 with proposed new §5.56 concerning fiscal year determination procedures.

The change results in subsection (a)(6) reading as follows: "delivery date, period of service, or order date, whichever is applicable, as determined in accordance with §5.56 of this title (relating to Fiscal Year Determination Procedures)."

The amendment updated and clarified the information which is required to be placed on all purchase vouchers before those vouchers can be processed.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

**§5.52. Requirements for All Purchase Vouchers.** Purchase vouchers submitted to the comptroller for processing must satisfy the following minimum requirements for content and supporting documentation:

(1) complete name and address of the vendor or payee;

(2) comptroller vendor I.D. number for the vendor or payee;

(3) fund number, fiscal year to be charged, cost center number, and comptroller object code;

(4) amount of the voucher;

(5) a description of the goods or services being purchased, which must be sufficiently detailed to support the fiscal year and comptroller object code selected;

(6) delivery date, period of service, or order date, whichever is applicable, as determined in accordance with §5.56 of this title (relating to Fiscal Year Determination Procedures);

(7) an original authorized signature and the original signature of one other officer or employee of the state agency; and

(8) any other information deemed necessary by the comptroller to support the disbursement of public funds.

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 24, 1988.

TRD-8805367      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: February 19, 1988

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

### 34 TAC §5.53

The Comptroller of Public Accounts adopts the repeal of §5.53, without changes to the text published in the February 19, 1988, issue of the *Texas Register* (13 TexReg 874).

The section was repealed so that a substantially revised section dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

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 24, 1988.

TRD-8805361      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: February 19, 1988

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

The Comptroller of Public Accounts adopts new §5.53, (to replace §5.53 that is being repealed), without changes to the proposed text as published in the February 19, 1988, issue of the *Texas Register* (13 TexReg 875).

The new section clarified and revised the requirements for certain types of purchase vouchers.

No comments were received regarding adoption of the section.

The section is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

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 24, 1988.

TRD-8805366      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: February 19, 1988

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

### • 34 TAC §5.54

The Comptroller of Public Accounts adopts an amendment to §5.54, without changes to the proposed text as published in the February 19, 1988, issue of the *Texas Register* (13 TexReg 875).

The section was repealed so that a substantially revised section dealing with the same

subject matter may be adopted.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

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 24, 1988.

TRD-8805365      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: February 19, 1988

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

The Comptroller of Public Accounts adopts new §5.54, (to replace §5.54 that is being repealed), with changes to the proposed text as published in the February 19, 1988, issue of the *Texas Register* (13 TexReg 876).

The new section was intended to clarify the procedures which state agencies must follow when hiring and paying consultants and persons who provide professional services.

The changes are necessary in order to make it clear that registered architects, registered professional engineers, and private legal counsel are not necessarily exempt from the requirements governing the employment of persons who provide professional services. The changes result in the deletion of subsection (b); the addition of language to the definition of consulting service in subsection (a), so that registered architects, registered professional engineers, and private legal counsel are not encompassed within that definition; and, the relettering of the remaining subsections.

The following comments were received against the section adoption.

Mr. Frank J. Smith of the Texas Department of Highways and Public Transportation, recommended separate sections for private consultants and persons who provide professional services. The comptroller has decided to adopt a combined section, because state agencies often equate private consultants with persons who provide professional services even though there are significant legal differences. The section, as adopted, clearly defines relevant terms and enables agencies to see the important differences.

Mr. Smith also suggested that registered architects and professional engineers cannot be private consultants because they constitute persons who provide professional services. However, the attorney general has previously ruled that it is possible for a person to simultaneously be both a private consultant and a person who provides professional services. Section 5.54, as adopted, reflects this ruling.

Finally, Mr. Smith noted an ambiguity in sub-

section (b) as proposed. He said the exemption in that subsection for registered architects, registered professional engineers, and private legal counsel could be construed as applying to the requirements for both private consultants and persons who provide professional services. The comptroller agrees with Mr. Smith, and has modified §5.54, as adopted, to eliminate this ambiguity. The exemption should apply only to the requirements for private consultants.

The new section is adopted under the Texas Government Code, §403.011, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

*§5.54. Requirements for Consultant and Professional Services Contracts.*

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

(1) Consulting service—The practice of studying an existing or a proposed operation or project of a state agency and advising the agency with regard to the operation or project. The term consulting service does not include services connected with the routine work necessary to the functioning of an agency's programs or services provided by registered architects, registered professional engineers, or private legal counsel.

(2) Private consultant—An entity that performs a consulting service.

(3) Professional service—A service within the scope of the practice of accounting, architecture, optometry, medicine, or professional engineering as defined by the laws of the state of Texas, or those services performed by any licensed architect, optometrist, physician, surgeon, certified public accountant, or professional engineer in connection with his professional employment or practice.

(4) State agency—

(A) Any department, commission, board, office, or other agency that:

(i) is in the executive branch of state government;

(ii) has authority that is not limited to a geographic portion of the state; and

(iii) was created by the constitution or a statute of this state.

(B) A university system or an institution of higher education as defined in the Texas Education Code, §61.003, as amended, other than a public junior college.

(b) Necessity for consulting services. A state agency may employ a private consultant only if there is a substantial need for consulting services and the agency can-

not adequately perform the necessary consulting services with its own personnel. A state agency may enter into a consulting services contract with a value in excess of \$10,000 per year only if the governor finds that a need exists for those services.

(c) Notice and publication requirements.

(1) At least 30 days before executing a contract with a private consultant whose total fee is anticipated to exceed \$10,000, a state agency shall notify the Legislative Budget Board and the Governor's Budget and Planning Office of the agency's intent to use a private consultant. The agency must also supply the Legislative Budget Board and the Governor's Budget and Planning Office with information demonstrating that the agency has complied with the requirements for employing a private consultant.

(1) If it is reasonably foreseeable that a contract for consultant services will have a value in excess of \$10,000, the state agency must file, at least 40 days before executing the contract, the following information with the secretary of state for publication in the *Texas Register*.

(A) a notice of invitation for offers of consulting services;

(B) the person with the agency who should be contacted by a private consultant who desires to make an offer;

(C) the closing date for the receipt of offers; and

(D) the procedure by which the agency will award the contract for consultant services.

(3) If a state agency and a private consultant enter into a contract with a value in excess of \$10,000, then the agency shall file, within 10 days of contracting, the following information with the secretary of state for publication in the *Texas Register*.

(A) a description of the study to be conducted;

(B) the name of the private consultant;

(C) the amount of the contract; and

(D) the due dates of the reports the private consultant is required to give to the state agency.

(4) Amendments or modifications to consultant contracts which were

previously published in the *Texas Register* must comply with the requirements of the secretary of state. Contracts which originally had a value of \$10,000 or less but which, upon amendment or modification, will have a value in excess of \$10,000 must comply with the requirements of the secretary of state.

(d) Submission of study designs and reports. Upon request, a state agency shall supply with Legislative Budget Board and the Governor's Budget and Planning Office with copies of all study designs and reports resulting from a study by a private consultant. Copies of all reports from private consultants must be filed with the Texas State Library.

(e) Professional Services Procurement Act. Professional services contracts which do not comply with the requirements of the Professional Services Procurement Act, Texas Civil Statutes, Article 664-4, are void and of no effect.

(f) Purchase voucher requirements. Purchase vouchers concerning consultant or professional services contracts must contain the following information and be supported by the following documentation.

(1) total dollar amount of the contract;

(2) cumulative total of prior payments under the contract;

(3) copies of the contract and all amendments or modifications to that contract when the voucher either represents the first request for payment under a particular contract or is the first voucher submitted since the contract was amended or modified;

(4) the volume and page number of the *Texas Register* in which the requirements of this section were fulfilled;

(5) in the case of a professional services contract, a statement on the voucher that the contract complies with the Professional Services Procurement Act; and

(6) in the case of a consultant services contract with a value in excess of \$10,000 per year, a finding of fact from the governor that a need for the service exists.

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 24, 1988.

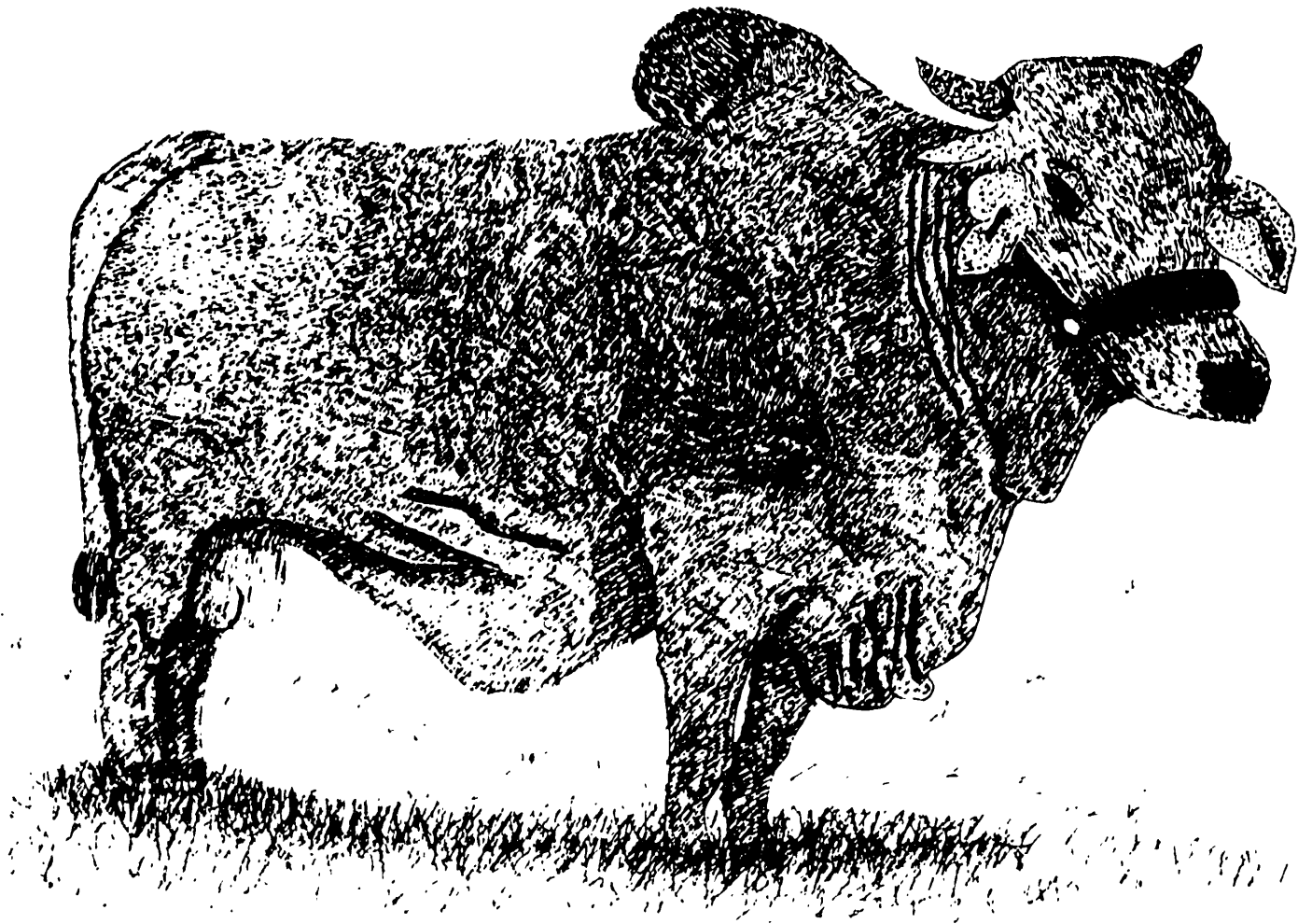
TRD-8805364

Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 16, 1988

Proposal publication date: February 19, 1988

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



Name: Frederick Green  
Grade: 10  
School: Marshall High, Marshall



# 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 Aeronautics Commission

Tuesday, June 7, 1988, 11:30 a.m. The Texas Aeronautics Commission will meet at Louie B's Restaurant, 601 East Sixth Street, Austin. According to the agenda summary, the commission may discuss items on the commission scheduled for 1:30 p.m., June 17, 1988.

Contact: Lydia Scarborough, Austin, Texas, (512) 476-9262.

Filed: May 27, 1988, 11:25 a.m.

TRD-8805499

Tuesday, June 7, 1988, 1:30 p.m. The Texas Aeronautics Commission will meet in Room 221, Anson Jones Office Building, 410 East Fifth Street, Austin. According to the agenda, the commission will hear the air carrier administration report concerning items pending commission action: Docket 88-2: Air Link Airways-Cancellation of TAC certificate of operating authority 17 serving the points of Allen Center Heliport, Astrodome Marriott Helipad, Galleria Guest Quarters Heliport, Greenway Plaza Heliport, Town and Country Heliport, and Houston Intercontinental; Docket 88-3: Conquest Airlines Corporation-Application for amendment to certificate of operating authority 23 to add the points of Brownsville, Harlingen, McAllen, Corpus Christi, Fort Worth, Houston Hull (Sugar Land), and Tyler; Docket 88-4: Conquest Airlines Corporation-Application for amendment of certificate of operating authority 23 to add the point of San Antonio; hear aeronautical services and facilities development report-Consideration of cancellation of fiscal year 1986 loan to freer, Duval County for construction of multiple unit T-hangar; and hear the director's report concerning consideration of adoption of agency's fiscal year 1990-1991 budget submission and consideration of percentage of grants and loans.

Contact: Lydia Scarborough, Texas Aeronautics Commission, Austin, Texas, (512) 476-9262.

Filed: May 27, 1988, 11:25 a.m.

TRD-8805450

## Texas Department of Commerce

Wednesday, June 8, 1988, 9:30 a.m. The State Review Committee of the Texas Department of Commerce will meet in Room 101, John H. Reagan Building, Austin. According to the agenda, the committee will present minutes; consider funding recommendations for the special impact fund; funding recommendations for the North Central Texas and Heart of Texas regions; appeals; lunch; continuation of appeals; and funding recommendations for the Texas Capital Fund.

Contact: Ruth Cedillo, (512) 320-9509.

Filed: May 31, 1988, 9:32 a.m.

TRD-8805510

## Texas Education Agency

Thursday-Friday, June 9-10, 1988, 1 p.m. and 5 p.m., respectively. The Apprenticeship and Training Advisory Committee for the Texas Education Agency will meet in the Embassy Suites Hotel, 7750 Briaridge Street, San Antonio. According to the agenda, the committee will hear reports from the chairperson, the director of adult education/employment and training, funding and compliance division of the TEA, committees regarding bylaws, finance and budget, planning, and resource subcommittee; approve the state plan for apprenticeship training; presentation on Master Plan for Vocational Education; and view video presentation. "Apprenticeship, The Cutting Edge".

Contact: James Woodman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

Filed: May 27, 1988, 11:35 a.m.

TRD-8805448

## Employees Retirement System of Texas

Wednesday, June 8, 1988, 9 a.m. The

Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in Room 332, Texas Air Control Board, 6330 US 290 East, Austin. According to the agenda, the committee will approve minutes of the May 18, 1988, meeting and consider continuation of work session on managed health care and dual choice options.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78711-3207, (512) 476-6431, ext. 217.

Filed: May 26, 1988, 4:28 p.m.

TRD-8805414

## Texas Employment Commission

Tuesday, June 7, 1988, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda, the commission will consider prior meeting notes; hear public comment; consider elevator renovation for main headquarters building; air conditioning improvements to first floor of Trinity Building; interior repainting, Waco; resurface parking lot, McAllen and Westaco; interior renovation, Plainview and Longview; discuss parking situation; and consider date and agenda items for next commission meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: May 27, 1988, 3:29 p.m.

TRD-8805480

## General Land Office

Wednesday, June 8, 1988, 2:30 p.m. The Veteran's Land Board for the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the April 11, 1988, meeting; consider an amendment to the 1986 Veterans Land Board Refunding Escrow Agreement; consider forfeiture action on delinquent accounts; and consider order for sale of forfeited accounts.

Contact: Jack Giberson, Stephen F. Austin

Building, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-5254.

Filed: May 27, 1988, 2:53 p.m.

TRD-8805477

## Governor's Office

Monday and Tuesday, June 6 and 7, 1988, 11:30 a.m. and 8:30 a.m., respectively. The Governor's Task Force on Agricultural Development of the Governor's Office will meet in the Senate Chambers, Capitol Building, Austin. According to the agenda summary, the task force will hear presentations on relevant issues and set parameters for charges.

Contact: Margaret Spearman, Sam Houston Office Building, Room 201, Austin, Texas, (512) 463-1814.

Filed: May 26, 1988, 12:40 p.m.

TRD-8805387

## Health and Human Services Coordinating Council

Friday, June 3, 1988, 1:30 p.m. The Administration/Management Task Force Technical Advisory Group of the Health and Human Services Coordinating Council will meet in the MIS Conference Room, Building 200, 8900 Shoal Creek Boulevard, Austin. According to the agenda, the group will approve minutes of the previous meeting; review the charge; discuss workplan; consider additional interagency issues; and discuss old and new business.

Contact: Patricia O. Thomas, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: May 26, 1988, 1:42 p.m.

TRD-8805388

## State Board of Insurance

The Commissioners Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Boulevard, Austin. Dates, times, rooms, and agendas follow.

Friday, May 27, 1988, 8:45 p.m. The board met in emergency session in Room 414 to consider request for postponement of meeting originally scheduled for June 2, 1988, at 9 a.m.; 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 of rate territory. The emergency status was necessary because receipt on this date of request for postponement because medical condition precludes presence of petitioner's primary spokesman.

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

Filed: May 26, 1988, 4:24 p.m.

TRD-8805413

Tuesday, June 7, 1988, 9 a.m. The board will conduct a public hearing in Room 353 to consider the application for amendment to the Articles of Incorporation of Universal Surety of America, Houston, amending the purpose clause.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805493

Tuesday, June 7, 1988, 10 a.m. The board will meet in Room 414 to consider an amendment to Rule 57.D of the Texas Automobile Manual and adoption of new endorsement TE23 29A, Farm and Ranch Vehicles-trailer coverage; board orders on several different matters as itemized on the complete agenda; fire marshal: personnel and litigation; statistical and rate development: personnel; research and information services: personnel; commissioner: personnel and litigation; charter for integral audit section; research and information services: consider publication of Medicare supplement insurance consumer brochure.

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

Filed: May 27, 1988, 2:14 p.m.

TRD-8805470

Tuesday, June 7, 1988, 1:30 p.m. The board will conduct a public hearing in Room 353 to consider the application of John Lloyd Aune, Commerce, for a Group I, legal reserve life insurance agent's license to be issued by the State Board of Insurance.

Contact: James Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805494

Tuesday, June 7, 1988, 2 p.m. The board will meet in Room 414 to consider decision concerning appeal from commissioner's order creating state of conservatorship and motion for stay; and consideration of decision concerning appeal from order of the commissioner of insurance upholding a directive of an insurance company and motion to stay.

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

Filed: May 27, 1988, 2:13 p.m.

TRD-8805471

Wednesday, June 8, 1988, 9 a.m. The board will meet in Room 353 to conduct a public hearing to consider the application of Citizens Insurance Company of America, Austin, to acquire control of Great Southwest Life Insurance Company, Houston.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805495

Wednesday, June 8, 1988, 1:30 p.m. The board will meet in Room 342, to conduct a public hearing to consider whether disciplinary action should be taken against Bobbie Lee Hamlet, Canyon Lake/Silsbee, who holds a Group II, health and accident insurance agent's license used by the State Board of Insurance.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805496

Wednesday, June 8, 1988, 1:30 p.m. The board will meet in Room 353 to conduct a public hearing to consider reinsurance agreement whereby Grammier-Oberle Burial Association, Port Arthur, will be reinsured by Texas Imperial Life Insurance Company, Beaumont.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805497

Wednesday, June 8, 1988, 3 p.m. The board will meet in Room 353 to conduct a public hearing to consider reinsurance agreement whereby Grammier Benefit Association, Port Arthur, will be reinsured by Texas Imperial Life Insurance Company, Beaumont.

Contact: O. A. Cassity, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805498

Thursday, June 9, 1988, 1:30 p.m. The board will meet in Room 342 will conduct a public hearing to consider the application of Jack Floyd Fowler, Houston, for a Group I, legal reserve life insurance agent's license.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:39 p.m.

TRD-8805499

Friday, June 10, 1988, 9 a.m. The board will meet in Room 342 to consider whether disciplinary action should be taken against David Hardie Quinn, Tomball/San Antonio,

who holds a Group I, legal reserve life insurance agents license and a local recording agent's license issued by the board.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:39 p.m.

TRD-8805500

Friday, June 10, 1988, 1:30 p.m. The board will meet in Room 342 to reopen a public hearing to consider the application of Carl Ballard, McKinney, for renewal of his insurance adjuster's license issued by the board, File 88-0443.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:39 p.m.

TRD-8805501

Friday, June 10, 1988, 1:30 p.m. The board will meet in Room 353 to consider the application for original charter of MetLife Insurance Company of Texas, Austin.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:39 p.m.

TRD-8805502

Monday, June 13, 1988, 9 a.m. The board will meet in Room 353, to consider the application of Donald Emmett Main, Fort Worth, for a Group II, life, health, and accident insurance agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6326.

Filed: May 27, 1988, 3:39 p.m.

TRD-8805503

Monday, June 13, 1988, 1:30 p.m. The board will meet in Room 353 to consider the application for amendment to the Articles of Incorporation of American Group Life Insurance Company, Austin, in regards to director liability.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:40 p.m.

TRD-8805504

Monday, June 13, 1988, 2 p.m. The board will meet in Room 353 to consider the application for amendment to the Articles of Incorporation of Mustang Life Insurance Company, Rio Vista, in regards to director liability.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 27, 1988, 3:38 p.m.

TRD-8805505

## Board of Pardons and Paroles

Monday-Friday, June 6-10, 1988, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: May 27, 1988, 3:26 a.m.

TRD-8805442

Tuesday, June 7, 1988, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider and act on minutes of the May 3, 1988, and May 17, 1988, meeting; budget; organizational chart; sexual harass; policy; agency complaint policy; ratification of memorandum regarding board list cases; criteria for issuance of warrants; HH contract modifications/renewals; parole officer qualifications; information resources management council; public input, comments; and hear the executive director's report.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: May 27, 1988, 10:31 p.m.

TRD-8805479

Tuesday, June 7, 1988, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: May 27, 1988, 10:31 p.m.

TRD-8805443

## State Preservation Board

The Architect of the Capitol Selection Committee for the State Preservation Board met in emergency session in Room 220, Lieutenant Governor's Room, State Capitol, Austin. Dates, times, and agendas follow.

The emergency status was necessary to fill a position vacancy as quickly as possible.

Tuesday, May 31, 1988, 10 a.m. The committee reviewed applicants in executive session, and voted on applicants.

Contact: Dealey Herndon, 322 Congress Avenue, Austin, Texas 78701, (512) 474-7743.

Filed: May 27, 1988, 2:41 p.m.

TRD-8805476

Wednesday, June 1, 1988, 1 p.m. The committee met in executive session to interview applicants.

Contact: Dealey Herndon, 322 Congress Avenue, Austin, Texas 78701, (512) 474-7743.

Filed: May 27, 1988, 2:41 p.m.

TRD-8805475

Thursday, June 2, 1988, 8:30 a.m. The committee met in executive session to interview applicants.

Contact: Dealey Herndon, 322 Congress Avenue, Austin, Texas 78701, (512) 474-7743.

Filed: May 27, 1988, 2:41 p.m.

TRD-8805474

Thursday, June 2, 1988, 2 p.m. The committee voted on applicants for a short list, and met in executive session to interview applicants.

Contact: Dealey Herndon, 322 Congress Avenue, Austin, Texas 78701, (512) 474-7743.

Filed: May 27, 1988, 2:41 p.m.

TRD-8805473

## Texas State Board of Public Accountancy

Monday, June 13, 1988, 10 a.m. The Texas State Board of Public Accountancy will meet on the 26th Floor, 1200 Travis, Houston. According to the agenda, the board will conduct public hearings on two examination candidates.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

Filed: May 27, 1988, 1:46 p.m.

TRD-8805472

## 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.

Thursday, May 26, 1988, 6:30 p.m. The Hearings Division met in emergency ses-

sion to consider Gulf States Utilities Company's request for an extension of time to file compliance tariffs in Dockets 7195 and 6755-Application of Gulf States Utilities Company for authority to change rates and inquiry of the commission into the prudence and efficiency of the planning and management of the River Bend Nuclear Generating Station. The emergency status was necessary because failure of the commission to rule promptly on motion results in loss of commission jurisdiction over subject matter of the motion.

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

Filed: May 26, 1988, 3:59 p.m.

TRD-8805407

Monday, June 6, 1988, 10 a.m. The Hearings Division will consider Docket 8116-Application of San Patricio Electric Cooperative, Inc. for authority to implement a temporary reduction in the small general service rate.

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

Filed: May 27, 1988, 4:20 p.m.

TRD-8805485

Tuesday, June 7, 1988, 9 a.m. The Hearings Division will consider Docket 8120-Application of Five Area Telephone Cooperative, Inc. to offer private pay telephone service.

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

Filed: May 27, 1988, 4:20 p.m.

TRD-8805486

Monday, June 13, 1988, 1:30 p.m. The Hearings Division will consider Docket 8102-Application of Southwest Texas Electric Cooperative, Inc. to change irrigation rate and revise irrigation tariff.

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

Filed: May 26, 1988, 3:26 p.m.

TRD-8805422

Monday, July 18, 1988, 10 a.m. The Hearings Division will consider Docket 8116-Application of San Patricio Electric Cooperative, Inc. for authority to implement a temporary reduction in the small general service rate.

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

Filed: May 27, 1988, 4:20 p.m.

TRD-8805487

Monday, July 25, 1988, 10 a.m. The Hearings Division will consider Docket 7754-

Application of South Texas Electric Cooperative, Inc., et al., for waiver of certain obligations under rule 23.66(d).

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

Filed: May 26, 1988, 3:25 p.m.

TRD-8805423

## Railroad Commission of Texas

Monday, June 6, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: May 27, 1988, 12:07 p.m.

TRD-8805466

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: May 27, 1988, 12:10 p.m.

TRD-8805455

Consider and act on Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants.

Contact: C. Tom Clow, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7274.

Filed: May 27, 1988, 12:11 p.m.

TRD-8805453

The Flight Division will consider and act on the division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6787.

Filed: May 27, 1988, 12:11 p.m.

TRD-8805454

The Gas Utilities Division will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take vari-

ous actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Vicki Dimego, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7009.

Filed: May 27, 1988, 12:10 p.m.

TRD-8805459

The Office of Information Services will consider and act on the Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78704, (512) 463-6710.

Filed: May 27, 1988, 12:07 p.m.

TRD-8805457

The Investigation Division will consider and act on division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711 (512) 463-6828.

Filed: May 27, 1988, 12:10 p.m.

TRD-8805458

The Legal Division will consider the implications of oil and gas statewide rule 69 dealing with out-of-state sale of gas produced from publicly owned and leased minerals.

Contact: G. Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: May 27, 1988, 12:12 p.m.

TRD-8805451

Consider and act on the Legal Division's report on division administration, budget, procedures, and personnel matters; proposed and pending litigation, including but not limited to discussion and/or action on the following: FERC Orders 500, 500A-C, and related litigation in the D.C., fifth, third, and seventh circuits. Missouri Pacific Railroad Company, et. al v. Railroad Commission of Texas; Cause A-86-CA-406, U.S. District Court-Western District of Texas.

Contact: G. Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: May 27, 1988, 12:09 p.m.

TRD-8805462

LP-Gas Division will consider and act on division director's report on division administration, budget, procedures, and personnel matters. Proposed rulemaking to amend 16 TAC §13.84 pertaining to insurance requirements for persons licensed by the compressed natural gas section of the commission. Proposed rulemaking to amend 16 TAC §9.24 pertaining to insurance require-

ments for LP Gas dealers licensed by the State of Texas.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6931.

Filed: May 27, 1988, 12:07 p.m.

TRD-8805461

The Oil and Gas Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Sonia O'Neal, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7325.

Filed: May 27, 1988, 12:07 p.m.

TRD-8805464

The Oil and Gas Division will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 462-6755.

Filed: May 27, 1988, 12:11 p.m.

TRD-8805452

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: May 27, 1988, 12:07 p.m.

TRD-8805465

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: May 27, 1988, 12:10 p.m.

TRD-8805456

The Surface Mining Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6900.

Filed: May 27, 1988, 12:10 p.m.

TRD-8805460

Consider the approval of a grant application to the Office of Surface Mining for funds under Title IV of the Federal Surface Mining Control and Reclamation Act of 1977 to reclaim abandoned coal waste banks in Parker and Palo Pinto Counties.

Contact: Jerry Hill, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6900.

Filed: May 27, 1988, 12:07 p.m.

TRD-8805467

The Transportation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: G. Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: May 27, 1988, 12:09 p.m.

TRD-8805463

## School Land Board

Tuesday, June 7, 1988, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous board meeting; pooling applications; applications for suspension of state leases; direct land sales, Grimes, Jim Wells, Limestone, and Wheeler Counties; excess acreage applications, Terrell, Parker, and Hansford Counties; royalty reduction requests by Home Petroleum, State Leases M-85419 and M-85420; coastal public lands, amendment and emergency adoption to Rule 31, TAC §155.4, Cabin Permits; lease applications; cabin permit renewals; cabin permit applications; consideration of proposed land trade, El Paso County; application of Mary Northcutt to patent 80 acres, Red River County, under Article VII, §4a, Texas Constitution.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: May 27, 1988, 4:17 p.m.

TRD-8805482

## Advisory Commission on State Emergency Communications

Wednesday, June 1, 1988, 9 a.m. The Advisory Commission on State Emergency Communications met in Room 104, John H. Reagan Building, Austin. According to the agenda, the commission made an emergency addition to the previously filed agenda to consider the comptroller's office ruling regarding tax status of the 9-1-1 surcharges and service fees and potential actions concerning exemption or modification of the ruling. The taxation affects the time table for billing and implementing 9-1-1 service is provided by existing commission rules and will impact billing procedures and costs of telecommunications providers.

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: May 27, 1988, 4:21 p.m.

TRD-8805484

## Teacher Retirement System of Texas

Friday, June 10, 1988, 9 a.m. The Board of Trustees for the Teacher Retirement System of Texas will meet in the Boardroom, 1001 Trinity, Austin. According to the agenda, the board will consider memorial resolution; nomination of board vice chairman, approval of minutes; review of certain TRS real estate projects; quarterly investment review; review of IAC recommendations; consideration of appointments to investment advisory, medical board and group insurance advisory committees; designation of officers of the group insurance advisory committee; consideration of renegotiated provisions to Texas public school retired employee group health insurance program contracts; consideration of resolutions on authority; building progress report; consideration of revisions of TRS ethics policy; consideration of legislative proposals; consideration of board resolutions, proposed rule changes; hear general counsel and member benefits reports; and consider personnel.

Contact: Mary Godzik, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: May 31, 1988, 9:49 a.m.

TRD-8805511

## Advisory Council for Technical-Vocational Education in Texas

Saturday and Sunday, June 11 and 12, 1988, 8 a.m. and 8:30 a.m. The Advisory Council for Technical-Vocational Education in Texas will meet in the Executive Conference Center, Barton Creek Conference Re-

sort, 8212 Barton Creek Drive, Austin. According to the agenda summary, the council will receive a status report on sex equity in Texas by Christine Smart, Texas Education Agency; receive an update on proprietary schools in Texas from Vernon Steward, Texas Association of Private Schools; hear an update on State Board of Education actions; receive an update on Coordinating Board actions; review the council's drop-outs prevention paper; receive a progress report on the cost benefit study of vocational education; discuss the 1987-1988 schedule-of-work accomplishments, strategies for evaluation topics assigned the council by the state board, strategies for the 1988-1989 vocational education awards program, a proposal to develop a vocational education resource library, and JTPA/vocational education evaluation strategies; plan future council meetings; discuss the council's budget for 1988-1989; elect council officers and members of the Executive Committee at large; and conduct other business.

Contact: Will Reece, P.O. Box 1886, Austin, Texas 78767, (512) 463-5490.

Filed: May 27, 1988, 9:42 a.m.

TRD-8805426

## Texas Tech University

Friday, June 3, 1988, 10 a.m. The Finance and Administration Committee of the Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center will meet in the Venus Room, East Tower, Hyatt Regency DFW, Dallas/Fort Worth Airport. According to the agenda, the committee will review appropriations request for the 1990-1991 biennium.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: May 27, 1988, 10:40 a.m.

TRD-8805445

## Texas Water Commission

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

Monday, June 6, 1988, 10 a.m. The commission will consider application by Kempner Water Supply Corporation to amend water certificate of convenience 10456 in Coryell County (Docket 7374-C); hear report of substantial noncompliance and order requiring certain actions of City of Seguin (Permit 10277-01); consider motion to amend the January 13, 1987 order concerning the City of Celina (Permit 10041-01) and amendment to commission order of March 5, 1988 concerning City of Houston Permit 10495-001-121).

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

Filed: May 27, 1988, 4:04 p.m.

TRD-8805490

Tuesday, June 7, 1988, 9 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider hearing on TA-5947 of Allan Construction Company, Inc. for a permit to divert and use 50-acre-feet of water for a two year period from Sulphur Creek, tributary Lampasas River; Mesquite Creek, tributary Lampasas River; and Lampasas River, tributary Little River, tributary Brazos River, Brazos River Basin for industrial purposes (highway construction, US 190) in Lampasas County.

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

Filed: May 26, 1988, 11:41 a.m.

TRD-8805386

Thursday, June 9, 1988, 9 a.m. The commission will consider executive director's report of substantial noncompliance and order requiring certain actions of the City of O'Brian (Permit 10806-01).

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

Filed: May 27, 1988, 4:04 p.m.

TRD-8805492

Thursday, June 9, 1988, 10 a.m. The commission will consider executive director's preliminary report and petition for order requiring certain actions of the City of Del Rio (Permit 10159-01).

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

Filed: May 27, 1988, 4:04 p.m.

TRD-8805491

Tuesday, July 12, 1988, 9 a.m. The commission will consider Quail Creek Development Company seeking to extend the time to commence and complete construction of "Y" Branch Reservoir Dam, authorized by Water Use Permit 4106, on an unnamed tributary of West Amarillo Creek, tributary of Canadian River, Canadian River Basin, to impound in the reservoir not to exceed 235 acre-feet of water and to divert therefrom not to exceed 169 acre-feet of state water for irrigation purposes, approximately five miles northwest of Amarillo, Potter County. The reservoir will also be used for recreational purposes.

Contact: Gloria A. Vasquez, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Filed: May 27, 1988, 4:06 p.m.

TRD-8805488

Tuesday, July 19, 1988, 10 a.m. The Office of Hearings Examiner will meet in the County Courtroom, Atascosa County Courthouse, Circle Drive 41, Jourdanton. According to the agenda summary, the office will consider application by San Miguel Electric Cooperative, Inc., P.O. Box 280, Jourdanton, Texas 78026 for renewal of Permit 02601 which authorizes an intermittent flow variable discharge from four ponds containing various wastewater typical of electric power stations. The effluent is discharged from the San Miguel Steam Electric Station which is located approximately four miles east of State Highway 16 and sixteen miles south (via State Highway 16) of the City of Jourdanton, Atascosa County. The effluent is discharged into unnamed tributaries of Souse Creek; thence to Souse Creek; thence to La Parita Creek; thence to the Atascosas River in Segment 2107 of the Nueces River Basin.

Contact: James Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 26, 1988, 11:41 a.m.

TRD-8805385

Wednesday, July 20, 1988, 10 a.m. The Office of Hearings Examiner will meet in Room 202, Lufkin City Hall, 300 East Shepherd, Lufkin. According to the agenda summary, the office will consider application by Central Independent School District, Route 1, Box 39, Pollock, Texas 75969 to the commission for an amendment to Permit 12214-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 17,000 gallons per day to an ultimate volume not to exceed an average flow of 37,100 gallons per day. The proposed amendment would also add monitoring requirements for minimum dissolved oxygen concentration.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 26, 1988, 11:42 a.m.

TRD-8895384

Wednesday, July 27, 1988, 10 a.m. The Office of Hearings Examiner will meet in the Community Room, Dalhart City Hall, 205 Rock Island Avenue, Dalhart. According to the agenda summary, the office will consider application of Derl and Taos Cribbs, P.O. Box 286, Dalhart, Texas 79022 for a permit (Proposed Permit 02980) to authorize disposal of cattle trailer wash-out wastewater by evaporation or land application at a volume not to exceed an average of 200,000 gallons per month. Washwater and solids from the concrete wash area are drained to a concrete collection pit. Solids are either separated and dried or pumped to a storage vessel with the washwater. Solids and washwater are disposed of by land application offsite with

limited disposal on site. The permittee may build an evaporation pond for an alternate disposal method.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 27, 1988, 4:05 p.m.

TRD-8805489

Thursday, July 28, 1988, 10 a.m. The Office of Hearings Examiner will meet in the District Courtroom, Fayette County Courthouse, La Grange. According to the agenda summary, the office will consider application of Edward T. Mica, Route 2, Box 231, Flatonia, Texas 78941 to the commission for a permit (Proposed Permit 02965) to authorize disposal of poultry wastewater from a laying hen operation. The operation consists of two-43,200 bird capacity houses, or a total of 86,400 laying hens, and will utilize a flushwater system with a settling trough adjacent to the houses to collect solids prior to disposal into a 17.4 acre-foot wastewater lagoon. The lagoon is designed to provide storage of eight cubic feet per bird and will accommodate wastewater generated by the laying hen operations and rainfall runoff. No discharge of pollutants into the waters of the state is authorized by this permit.

Contact: Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 26, 1988, 11:42 a.m.

TRD-8805383

## Texas Water Development Board

Friday, June 3, 1988, 11 a.m. The Texas Water Development Board will meet in Room 118, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider awarding the sale of, approval and use of official statement, invitation to bidders, and the official bid form, and all other necessary action authorizing the issuance, sale and delivery of \$61,000,000 Texas water development bonds, Series 1988A (water quality enhancement) and Series 1988B (flood control), and \$2,000,000 Texas water development bonds, Taxable Series 1988C (water supply).

Contact: M. Reginald Arnold, II, P.O. Box 13231, Austin, Texas, (512) 463-7847.

Filed: May 26, 1988, 2:24 p.m.

TRD-8805393

## Regional Meetings Meetings Filed May 26, 1988

The Henderson County Appraisal District, Appraisal Review Board, will meet at 1751 Enterprise, Athens, on June 6-10, 1988, 9 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas, (214) 675-9296.

The Hickory Underground Water Conservation District #1, Board and Advisors, met in the District Office, 2005 Old Nine Road, Brady, on June 2, 1988, at 7 p.m. Information may be obtained from Rick Illgner, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

The Lampasas County Appraisal District, Board of Directors, met at 109 East Fifth, Lampasas, on June 1, 1988, at 9:30 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Lavaca County Central Appraisal District, Board of Directors, will meet in the District Office, 113 North Main, Hallettsville, on June 13, 1988, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Central Tax Authority of Taylor County, Board of Directors, met in emergency session at 340 Hickory Street, on May 27, 1988, at 3 p.m. Information may be obtained from Ralph D. Anders, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

TRD-8805381

## Meetings Filed May 27, 1988

The Brazos River Authority, Water Utilization Committee, met at 4400 Cobbs Drive, Waco, on June 2, 1988, at 10 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555.

The Capital Area Rural Transportation System, Board of Directors, met in the Conference Room, 5111 East First Street, Austin, on June 2, 1988, at 9:30 a.m. Information may be obtained from Edna M.

Burroughs, 5111 East First Street, Austin, Texas 78702, (512) 389-1011.

The Dallas Area Rapid Transit, Board of Directors, met in the Boardroom 601 Pacific Avenue, Dallas, on May 31, 1988, at 5 p.m. Information may be obtained from Sylvia Villarreal, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Lower Colorado River Authority, Natural Resources Committee, met at the Thomas C. Ferguson Power Plant, seven miles west of Marble Falls on Ranch Road 2147, Marble Falls, on June 2, 1988, at 8:30 a.m. The Audit and Budget Committee will meet at the same location, on the same date, at 9 a.m. Information may be obtained from Thomas G. Mason, P.O. Box 220, Austin, Texas 78767, (512) 473-3283.

The Central Tax Authority of Taylor County, Appraisal Review Board and Board of Directors, met at 340 Hickory, Abilene, on May 31, 1988, at 1:30 p.m. and June 1, 1988, at 10 a.m., respectively. Information may be obtained from Ralph Anders, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on June 7, 1988, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wise County Appraisal District, Board of Directors, will meet in the Boardroom, 206 South State Street, Decatur, on June 9, 1988, at 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081, ext. 74.

TRD-8805420

## Meetings Filed May 31, 1988

The Brazos Valley Development Council, Board of Directors, will meet in Suite 2, 3006 East 29th Street, Bryan, on June 9, 1988, at 7 p.m. Information may be obtained from Glenn J. Cook, 3006 East 29th Street, Suite 2, Bryan, Texas, (409) 776-2277.

The Hockley County Appraisal District, Board of Directors, will meet at 1103-C Houston Street, Levelland, on June 6, 1988, at 7 p.m. Information may be obtained from Eugene Lewis, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

TRD-8805507





Name: Chris Arrington  
Grade: 7  
School: Marshall Jr. High, Marshall



# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board

### Notice of Applications for Construction Permits

Notice is given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of April 18, 1988-May 20, 1988.

Information relative to the applications listed following including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

Apache Gas Corp., Ozona; gas sweetening plant; Ozona, Crockett County; 18799; new.

Sentinel Foam Products Manufacturing, Dallas; extruded foam products; Dallas, Dallas County; 18800; new.

Sentinel Foam Products Manufacturing, Dallas; extruded foam products; Dallas, Dallas County; 18803D; new.

Amoco Oil Company, Texas City; Utraformer 2 Heaters B-1 Replacements; Texas City, Galveston County; 18808; new.

Pinnacle Natural Gas Company, Fort Stockton; amine sour gas sweetening; Fort Stockton, Pecos County; 18809; new.

Houston Lighting and Power, Thompsons; auxiliary boiler; Thompsons, Fort Bend County; 18851; new.

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

TRD-8805401 Bill Ehret  
Director of Hearing  
Texas Air Control Board

Filed: May 26, 1988

For further information, please call (512) 451-5711, ext. 354.

### Notice of Public Hearings

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act (TCAA), Article 4477-5, §3.09; 40 Code of Federal Regulations §51.102 of the Environmental Protection Agency (EPA) Regulations concerning State Implementation Plans (SIP); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and the Texas Air Control Board (TACB) Procedural Rules, §103.11(4), the TACB will conduct public hearings to receive testimony on proposed revisions to TACB Regulation V, concerning control of air pollution from volatile organic compounds (VOC) and TACB general rules.

The proposed revisions are intended to satisfy a commitment included in the Post-1982 SIP revisions for ozone in Dallas and Tarrant counties to implement measures to insure the maximum effectiveness of controls adopted in conjunction with the plan. The proposed revisions are anticipated to result in more effective and consistent enforcement of controls for reducing VOC in Dallas and Tarrant Counties. Proposed changes which will clarify existing limitations and controls or will formalize current enforcement practices only are also proposed for all counties where affected sections apply. However, no new requirements are being proposed for any area except Dallas and Tarrant counties.

The TACB proposes to amend the following sections:

Sections 115.111-115.113, concerning facilities for loading and unloading of VOC, to require leak inspections and tank-truck testing be performed; §§115.131-115.135, concerning filling of gasoline storage vessels (Stage I) for motor vehicle fuel dispensing facilities, also to require leak inspections and tank-truck testing and to delete an obsolete exemption for older facilities; §§115.141-115.144, concerning water separation, to require controls on all VOC water separators in Dallas and Tarrant counties which separate materials having a true vapor pressure of 0.5 psia or greater regardless of volume throughout and to delete the exemption of crude oil and condensate production facilities in Dallas and Tarrant counties; §§115.162-115.164, concerning vent gas control, to clarify the current concentration based exemption for VOC vent gas streams with emission of greater than 100 pounds of VOC per day and to delete the unnecessary reference to vents which exceed 250 pounds of VOC per hour; §§115.171-115.176, concerning specified solvent-using processes, to establish minimum emission capture and control efficiencies for various types of degreasing operations, and to specify other operational requirements; §§115.191-115.193, concerning surface coating processes, to delete emission limitations expressed as pounds of VOC per gallon of solids but to clarify that control equivalency of alternate methods shall be determined on a per gallon of solids basis, to clarify that emission limits are to be determined as delivered to the application system rather than as applied, and to lower the exemption level to require controls at facilities in Dallas and Tarrant counties which emit more than 100 pounds of VOC per day or 10 tons of VOC per year; §§115.201-115.203, concerning graphic arts (printing) by rotogravure and flexographic processes, to clarify that the emission limitations for low solvent inks are to be calculated minus water and exempt solvents and to require facilities subject to controls after December 31, 1989, to conduct initial compliance testing within 90 days after that deadline; §115.221, concerning perchloroethylene dry cleaning systems, to require the storage of waste solvent material in vapor-tight containers; §115.262, concerning VOC leaks from gasoline tank-trucks, to specify the test method to be used to determine compliance with applicable control requirements; and §101.1, concerning definitions, to define various terms regarding the control of surface coating and graphic arts facilities.

The proposed revisions to these sections also identify the appropriate test methods to be used in all counties affected by each section and the additional recordkeeping required for facilities in Dallas and Tarrant counties in order to more effectively and consistently determine and enforce compliance with applicable control measures.

Public comments, both oral and written, on the proposals are invited at the public hearings. The hearings will be held at the following times and places: June 29, 1988, 10 a.m., Texas Air Control Board Auditorium, 6330 Highway 290 East, Austin; June 29, 1988, 7 p.m., Downtown Central Library Auditorium, 1515 Young Street, Dallas; June 30, 1988, 2 p.m., City Council Chambers, 1000 Throckmorton, Fort Worth.

The hearings are structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted, although a TACB staff member will be available to answer questions informally. Accordingly, persons desiring to testify at a hearing should examine the materials on file beforehand and prepare their statements for presentation at the hearing.

Written comments not submitted at a hearing may be submitted to the TACB central office in Austin prior to and including July 1, 1988. Comments received by 4 p.m. on that date at the TACB central office in Austin will be considered by the board prior to any final decision on the proposed revisions. Five copies of all written comments are requested.

Copies of the proposal are available for inspection at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, and at the TACB Fort Worth regional office located at 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116. For further information, call Russell Baier at (512) 451-5711.

Issued in Austin, Texas on May 25, 1988.

TRD-8805441

Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: May 27, 1988

For further information, please call (512) 451-5711 ext. 354

◆ ◆ ◆  
**Texas Department of Health**  
**Correction of Error**

The Texas Department of Health submitted a new section which contained an error as submitted by the department in the May 10, 1988, issue of the *Texas Register* (13 TexReg 2213).

In §115.18, the last sentence to subsection (m) should read: "Orders for home staff assisted dialysis shall include frequency and length of treatment, weight to be maintained, type of dialyzer, dialysate heparin dosage, blood flow rate, and shall specify the level of preparation required for the care given (i. e. qualified dialysis technician, licensed vocational nurse, or registered nurse) ."

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**Licensing Actions for Radioactive**  
**Materials**

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

## NEW LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
College Station	Granada Genetics, Inc.	L04167	College Station	0	05/04/88
Dallas	GeneScreen, Inc.	L04183	Dallas	0	05/11/88
Fort Worth	Harris Methodist Hospital Southwest	L04146	Fort Worth	0	04/18/88
Lufkin	Lufkin Diagnostic Center, Inc.	L04155	Lufkin	0	05/06/88
San Antonio	Patrick S. O'Connor, M.D.	L04160	San Antonio	0	05/03/88
Throughout Texas	Bernhard & Wright	L04184	Whitehouse	0	04/20/88
Throughout Texas	Texas Steel Inspection Company	L04188	Houston	0	04/20/88
Throughout Texas	J. H. Strain and Sons, Inc.	L04187	Tye	0	04/20/88
Throughout Texas	Bandas Industries, Inc.	L04191	Temple	0	05/06/88
Throughout Texas	Master Wireline Services, Inc.	L04161	Wichita Falls	0	05/04/88
Waco	Brazos Kidney Disease Center	L04189	Waco	0	04/26/88

## AMENDMENTS TO EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Abilene	Hendrick Medical Center	L00021	Abilene	22	05/06/88
Amarillo	H. Fred Johnson, M.D.	L01332	Amarillo	8	05/09/88
Austin	Doctors Thompson, Rock, & Assoc.	L00570	Austin	13	05/06/88
Austin	Doyle Leslie, M.D.	L01320	Austin	8	05/06/88
Dallas	Stanley E. Hodges, Jr., M.D., and Associates	L00472	Dallas	37	05/13/88
Denton	AMI Denton Regional Medical Center	L02764	Denton	14	04/20/88
Eastland	Eastland Memorial Hospital	L03222	Eastland	9	04/29/88
El Paso	PATH Lab, P.A.	L02267	El Paso	9	04/27/88
Galveston	The University of Texas Medical Branch	L01299	Galveston	27	04/22/88
Glen Rose	Harris Methodist Glen Rose	L03225	Glen Rose	6	05/05/88
Hamlin	Hamlin Memorial Hospital	L03418	Hamlin	4	05/02/88
Hico	Hico Community Hospital	L03220	Hico	4	04/28/88
Houston	Westbury Hospital	L02471	Houston	7	04/15/88
Houston	University of St. Thomas	L00460	Houston	12	05/06/88
Houston	Rosewood Medical Center	L01239	Houston	31	05/06/88
Houston	HCA Medical Center Hospital	L02073	Houston	16	04/28/88
Houston	M.B.A. Laboratories	L02571	Houston	4	05/05/88

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Mesquite	Mesquite Physicians Hospital	L02317	Mesquite	5	04/11/8
Nassau Bay	St. John Hospital	L03291	Nassau Bay	7	04/19/8
Orange	Inland-Orange, Inc.	L01029	Orange	30	04/20/8
Palestine	Anderson County Memorial Hospital	L02728	Palestine	10	05/11/8
Pasadena	N D S Products	L00991	Pasadena	22	04/28/8
Pasadena	TENN-USS Chemicals Company	L03421	Pasadena	3	04/29/8
Port Arthur	Cancer Center of Port Arthur	L04035	Fort Worth	4	05/02/8
San Angelo	Angelo Community Hospital	L02487	San Angelo	17	04/20/8
San Angelo	Angelo Community Hospital	L02487	San Angelo	18	04/20/8
San Antonio	Northeast Medical Center Radiology	L02926	San Antonio	5	04/08/8
San Antonio	San Antonio College	L00745	San Antonio	12	05/10/8
San Antonio	St. Mary's University	L00421	San Antonio	13	05/06/8
San Antonio	Southwest Immunodiagnostics Inc.	L03796	San Antonio	7	04/20/8
Seguin	Cone Biotech, Inc.	L02045	Seguin	11	04/20/8
Sierra Blanca	Cyprus Beryllium Corporation	L04100	Sierra Blanca	1	05/04/8
Throughout Texas	Texas Department of Health	L01155	Austin	31	04/27/8
Throughout Texas	Harding-Lawson Associates	L01970	Houston	14	04/25/8
Throughout Texas	Kebco Pipe Services	L03163	Odessa	5	04/19/8
Throughout Texas	Lone Star Test Lab, Inc.	L04171	San Antonio	1	04/25/8
Throughout Texas	Chemical Waste Management, Inc.	L02907	Port Arthur	6	04/19/8
Throughout Texas	Alpha Testing, Inc.	L03411	Dallas	6	04/18/8
Throughout Texas	Dowser Consulting	L04165	Houston	1	04/18/8
Throughout Texas	State Dept. of Highways and Public Transportation	L00197	Austin	51	04/18/8
Throughout Texas	East Texas Testing Laboratory	L01423	Tyler	22	04/14/8
Throughout Texas	Texas Department of Health	L01155	Austin	30	04/18/8
Throughout Texas	Phoenix Wireline Services	L03513	Seguin	3	04/19/8
Throughout Texas	Tuboscope, Inc.	L00287	Houston	71	04/14/8
Throughout Texas	The Methodist Hospital	L00457	Houston	53	05/04/8
Throughout Texas	J. H. Strain and Sons, Inc.	L04187	Tye	1	05/04/8
Throughout Texas	Superior Production Logging, Inc.	L01983	Snyder	25	04/28/8
Throughout Texas	Holmes Wireline Service	L02562	Odessa	19	04/28/8
Throughout Texas	ERT	L03195	Houston	8	04/29/8
Throughout Texas	State Dept. of Highways and Public Transportation	L00197	Austin	52	05/06/8
Victoria	Cain Chemical, Inc.	L04101	Victoria	1	04/25/8
Victoria	Citizens Medical Center	L00283	Victoria	39	05/02/8
Waco	Lawrence Canning, M.D.	L00910	Waco	10	05/06/8
Wichita Falls	Wichita General Hospital	L00350	Wichita Falls	34	04/29/8

RENEWALS OF EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Baytown	Mobay Corporation	L01577	Baytown	30	04/20/88
Baytown	Exxon Chemical Company	L02722	Baytown	15	05/04/88
Belton	Rockwool Industries, Inc.	L02826	Belton	4	04/20/88
Carrollton	City of Carrollton	L02819	Carrollton	4	04/20/88
Corpus Christi	Memorial Medical Center	L00265	Corpus Christi	42	04/18/88
Dallas	Southwest Dallas Hospital	L03046	Dallas	7	04/29/88
Denton	Medical Engineering Service, Inc.	L03269	Denton	4	05/09/88
Fort Worth	William C. Comer Research Center	L01281	Fort Worth	22	04/20/88
Fort Worth	Twin Oaks Medical Center	L03364	Fort Worth	9	04/19/88

RENEWALS OF EXISTING LICENSES ISSUED CONTINUED:

Freeport	BASF Corporation	L01021	Freeport	32	05/04,
Houston	Gulf Coast Diagnostic Corporation	L02335	Houston	22	05/03,
Houston	Eric A. Orzeck, M.D.	L01599	Houston	9	04/29,
La Porte	E. I. du Pont de Nemours & Company	L00314	La Porte	49	04/20,
New Braunfels	Lafarge Corporation	L02809	New Braunfels	11	04/20,
Odessa	Shell Oil Company	L01882	Odessa	6	04/20,
Orange	Baptist Hospital, Orange	L01597	Orange	14	04/28,
Pasadena	Hoechst Celanese Chemical Company	L01130	Houston	33	05/04,
Port Arthur	Park Place Hospital	L01300	Port Arthur	13	04/28,
Throughout Texas	Star-Jet Services, Inc.	L02214	Corpus Christi	11	04/27,
Throughout Texas	O'Malley and Clay, Inc.	L02310	Brenham	8	04/
Throughout Texas	Welex	L00387	Houston	74	05,
Waco	Hillcrest Baptist Medical Center	L02326	Waco	6	04/
Waco	Hillcrest Baptist Medical Center	L00845	Waco	46	04/29,

TERMINATIONS OF LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Corpus Christi	Corpus Christi State University	L01701	Corpus Christi	7	05/10/88
Fort Worth	Continental Hospital Suburban	L02980	Fort Worth	9	04/18/88
Throughout Texas	Service Fracturing Company	L02840	Pampa	5	04/26/88
Throughout Texas	K. Gordon Johnson & Company	L02792	Palestine	6	04/18/88
Throughout Texas	R. W. Mckinney and T. L. James and Co., Inc.	L03173	Waco	3	04/18/88

NEW LICENSES DENIED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Texas City	Baytown Industrial X-ray, Inc.	0	Texas City	0	04/28/88
Throughout Texas	Micro-Lab Services, Inc.	0	Montgomery	0	04/28/88

AMENDMENTS TO EXISTING LICENSES DENIED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Killeen	Tri-City Testing, Inc.	L03718	Killeen	0	05/03/88
Throughout Texas	United Technology	L03984	Hurst	0	04/26/88

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the persons considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

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

TRD-8805403      Robert A. MacLean  
Deputy Commissioner, Professional  
Services  
Texas Department of Health

Filed: May 26, 1988

For further information, please call (512) 835-7000.

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**Notice of Revocation of Certificate of  
Registration**

The Texas Department of Health, having duly filed a complaint pursuant to *Texas Regulations for Control of Radiation* Part 13.8, has revoked the following certificate of registration.

Bolivar Medical Clinic; R14515; Crystal Beach; April 25, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, Monday-Friday, 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas on May 25, 1988.

TRD-8805404      Robert A. MacLean  
Deputy Commissioner, Professional  
Services  
Texas Department of Health

Filed: May 26, 1988

For further information, please call (512) 835-7000.

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**Radioactive Material License Amendment**

Notice is hereby give by the Texas Department of Health that it proposes to amend the following radioactive material license:

Radioactive Material License Number L04015 issued to Mallinckrodt, Inc. for their facilities located in Houston (mailing address: Mallinckrodt, Inc., 8078 El Rio, Houston, Texas 77054) and Dallas (mailing address: Mallinckrodt, Inc., 1212 Dolton, Suite 307, Dallas, Texas 75207.)

The license amendment is summarized as follows: Designates a new radiation safety officer for the Houston facility.

The Division of Licensing, Registration, and Standards has determined that: (a) the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; (b) the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; (c) the licensee satisfies any applicable special requirements of the TRCR; and, therefore, (d) the issuance of the license amendment should not be inimical to public health and safety, or have a detrimental impact on the environment.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program) , 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the license will be issued.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the issuance of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.



Issued in Austin, Texas on May 24, 1988.

TRD-8805344 Robert A. MacLean  
Deputy Commissioner, Professional  
Services  
Texas Department of Health

Filed: May 25, 1988

For further information, please call (512) 835-7000



## Texas Higher Education Coordinating Board

### Notice of Meetings

The Bias Review Committee met on Wednesday, June 1, 1988, from 8 a.m.-5 p.m. The meeting was held at the Hyatt Regency Hotel, 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 25, 1988.

TRD-8805395 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Bias Review Committee met on Thursday, June 2, 1988, from 8 a.m.-5 p.m. The meeting was held at the Hyatt Regency Hotel, 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 25, 1988.

TRD-8805396 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Content Area Advisory Committees met on Thursday, June 2, 1988, from 8 a.m.-5 p.m. The meeting was held at the Hyatt Regency Hotel, 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 25, 1988.

TRD-8805397 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Content Area Advisory Committees will meet on Friday, June 3, 1988, from 8 a.m.-5 p.m. The meeting will be held at the Hyatt Regency Hotel, 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 25, 1988.

TRD-8805394 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Tests and Measurements Committee will meet on Friday, June 10, 1988, from 10 a.m.-3:30 p.m. The meeting will be held in Room 109, at the Texas Higher Education Coordinating Board, 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 25, 1988.

TRD-8805398 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Academic Skills Development Committee will meet on Thursday, June 16, 1988, from 1 p.m.-4:30 p.m. The meeting will be held in Room 255, at the Texas Higher Education Coordinating Board, 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 25, 1988.

TRD-8805399 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Academic Skills Development Committee will meet on Friday, June 17, 1988, from 10 a.m.-3:30 p.m. The meeting will be held in Room 255, at the Texas Higher Education Coordinating Board, 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 25, 1988.

TRD-8805400 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1988

For further information, please call (512) 462-6420



The Evaluation Committee will meet on Thursday, June 23, 1988, from 10 a.m.-3:30 p.m. The meeting will be held in Room 209, Texas Higher Education Coordinating Board, 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 25, 1988.

TRD-8805421 James McWhorter  
Assistant Commissioner For Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: May 27, 1988

For further information, please call (512) 462-6420

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**State Board of Insurance  
Company Licensing**

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of Hamilton National Life Insurance Company, a foreign life insurance company. The home office is in Farmington Hills, Michigan.
2. Application for admission to do business in Texas of American Centurion Life and Accident Assurance Company, a foreign life insurance company. The home office is in San Rafael, California.
3. Application for name change by NTA Life Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is National Teachers Associates Life Insurance Company.
4. Application for admission to do business in Texas of Life of Maryland, Incorporated, a foreign life insurance company. The home office is in Baltimore, Maryland.
5. Application for admission to do business in Texas of The Baltimore Life Insurance Company, a foreign life insurance company. The home office is in Baltimore, Maryland.
6. Application to admission to do business in Texas of Wheelways Insurance Company, a foreign casualty insurance company. The home office is in Wynnewood, Pennsylvania.

Issued in Austin, Texas on May 24, 1988.

TRD-8805402 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: May 26, 1988

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

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**Texas Savings and Loan Department  
Notice of Change of Control Application**

Texas Civil Statutes, Article 852a, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On May 23, 1988, the savings and loan commissioner received an application for approval of the acquisition of control of Summit Savings Association, Dallas County, by Western Federal Savings and Loan Association (Paul F. Ott, President), Dallas.

Any inquiries may be directed to the Texas Savings and Loan Department, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

Issued in Austin, Texas on May 24, 1988.

TRD-8805349

Laura M. Hale  
General Counsel  
Texas Savings and Loan Department

Filed: May 25, 1988

For further information, please call (512) 479-1250

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**Secretary of State  
Consultant Proposal Request**

Pursuant to Texas civil Statutes, Article 6252--11c, the Secretary of State is requesting proposals for consulting services.

**Description of services.** The agency invites individuals to offer their services in the area of public information and media relation activities regarding voter registration in Texas. Such services will include the development of a marketing concept and the writing and producing of a comprehensive campaign for voter registration and voter participation, i.e. "Get out the Vote," for the fall of 1988. Individuals will be expected to produce and distribute public service announcements for both news and trade media.

**Person to be contacted.** To obtain a complete copy of the request for proposal, contact Mr. Chris Shields, Executive Assistant to the Secretary of State, P.O. Box 12697, Austin, Texas 78711-2697, (512) 463-5719.

**Closing date.** Proposals to perform these consulting services will be accepted only if in writing and actually received in the office of the Secretary of State, Room 605, Sam Houston Building, Austin, Texas 78711, no later than Wednesday, July 13, 1988, at 3 p.m. The Secretary of State reserves the right to reject any or all proposals.

Issued in Austin, Texas on May 27, 1988.

TRD-8805579 Randall H. Erben  
Assistant Secretary of State  
Secretary of State

Filed: May 31, 1988

For further information, please call (512) 463-5701

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**Texas Water Commission  
Invitation for Bidders**

Notice to Bidders of the intention of the Texas Water Commission (TWC) to let contract for statewide emergency responses to oil and hazardous material incidents pursuant to the Texas Water Code, Chapter 26.261-26.268. All information contained herein and all documents pursuant to this bid apply to the statewide contract as well as each of the five contract regions: Region 1 composed of TWC Districts 1 and 2; Region 2 composed of TWC Districts 3, 4, and 5; Region 3 composed of TWC Districts 9 and 10; Region 4 composed of TWC Districts 8, 11, and 12; and Region 5 composed of TWC District 6, 14, and the Southeast Region.

Sealed technical proposals addressed to David Barker, Supervisor, Emergency Response Unit, Field Operations Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, will be received until 5 p.m. local prevailing time on August 4, 1988, for furnishing all personnel, materials, equipment, and supervision necessary to conduct emergency responses to oil and hazardous materials incidents on a statewide, 24 hour per day basis in accordance with all state and federal requirements and in accordance with the directives of the emergency response

unit supervisor or the supervisor's designee. No cost, price, or rate information shall be included in the technical proposal.

Sealed business proposals will be required to be submitted by all bidders who receive passing scores on the technical proposal and successfully complete the technical evaluation. The business proposals will contain cost, price, and rate information. The TWC will request both verbally and in writing the submittal of the business proposals. No business proposal shall be submitted without this request. This proposal must be received within three state working days after the initial verbal request. The date of this request is anticipated to be August 17, 1988, with the response due by 5 p.m. on August 22, 1988. This date is subject to change by TWC as may be necessary.

All proposals will become public records at the time an award is announced, or if none are awarded, after rejection of all bids. Any proposal which contains language purporting to render all or portions of the proposal confidential or proprietary, shall be regarded as nonresponsive. The state does not intend to make public financial data that is not otherwise public, unless disclosure is made necessary by a protest or other legal action, relating to the selection or nonselection of bidders based on financial stability. Bidders wishing to indicate that financial data is not public may do so subject to the above limitation.

Specified work shall consist of containment and countermeasures; analytical; cleanup, mitigation, transportation, and disposal; restoration; and security services. All books, records, documents, and other evidence directly pertinent to performance on work under the contract shall be maintained in accordance with generally accepted accounting principles and practices, and shall be available to TWC and their authorized representatives. All work shall comply with contract and contract annex specifications.

A bid proposal package of this project containing general conditions, transmittal summary, general instructions for the preparation and submission of proposals, preparation of the emergency services contract proposal, zone map, preparation of the statement of work, technical proposal criteria, business proposal criteria, environmental services rates, and client evaluation, will be sent to each prospective bidder upon request. This prospectus may be obtained through David Barker at the above listed address or by calling (512) 463-7727 during business hours.

A mandatory pre-proposal meeting will be held at 2 p.m. on Thursday, June 30, 1988, in Room 118 of the Stephen F. Austin, Building, 1700 North Congress Avenue, Austin. This will be the contractors only opportunity to ask technical questions about the contract proposals. All contractors submitting a proposal resulting from this invitation to bid must be represented in order to have their proposals considered. This conference is for information only. Any verbal responses furnished by TWC at this conference will not be official unless and until verified in writing by TWC. Copies of the minutes of this meeting, including any responses or changes to the invitation to bid resulting from the conference, will be mailed on July 12, 1988, to all potential bidders who appear on the official mailing list.

A letter of intent to submit a technical proposal shall be sent to David Barker at the above address by all bidders. The letter shall state the bidder's intention to submit a proposal and shall include the bidder's address, phone number and the name of a contact person. The letters must be received by 5 p.m. on July 8, 1988, or the proposal and bid will not be accepted. Letters of intent will not become public information until after the final date for submitting technical proposals.

Any questions on procurement and solicitation shall not be addressed directly to the state staff. All questions must be addressed in writing to the above address and must be received by 5 p.m. on July 11, 1988. After this date the state will only respond to questions related to invitation to bid addenda and administrative bulletins. Oral explanations or instructions given by state staff will not be considered binding unless confirmed in writing.

No bid may be withdrawn after the scheduled closing time for receipt of bids for at least 120 calendar days.

Costs for preparing proposals shall be solely the responsibility of the bidder. Bidder travel expenses for the prebid conference in Austin, shall be the responsibility of the bidder and shall not be billed to the state.

In case of ambiguity or lack of clearness stating the price in the bids, the TWC reserves the right to consider the most advantageous construction thereof, or to reject the bid.

Proposal amendment, revision, or alteration to proposals or price after the final date of submission for these items will not be accepted by the state, except as provided in the proposal clarification process.

A certified or cashier's check, or an acceptable bid bond in an amount not less than 5.0% of the total bid, shall accompany each bid as a guaranty that, if awarded the contract, the bidder will promptly enter into contract with the TWC and furnish bonds on the forms provided.

The successful bidder or bidders will be required to furnish a performance bond and a payment bond, each in the amount of the contract, written by a responsible surety company authorized to do business in the State of Texas, and satisfactory to the TWC as required by Texas Civil Statutes, Article 5160.

Insurance coverage for claims under the Worker's Compensation Acts, comprehensive general liability, and comprehensive automobile liability will be required in the amounts specified by the state as a contract condition.

Equal opportunity in employment: all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin. It is the policy of this state to promote equal opportunity in employment and all bidders must adhere to this policy and sign a contract statement to that effect.

Issued in Austin, Texas on May 27, 1988.

TRD-8805427 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

Filed: May 27, 1988

For further information, please call (512) 463-7787

◆ ◆ ◆  
**Notice of Application for Provisionally-Issued Temporary Permits**

Notice is given by the Texas Water Commission of provisionally-issued temporary permits issued during the period of March 4, 1988, to April 15, 1988.

These permits were issued without notice and hearing pursuant to §11.138 of the Texas Water Code and Commission Rules 31 TAC §§303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further

noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087 (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Elcon Trucking Company, Inc.; water may be diverted at a maximum rate of 1.2 cfs (546 gpm) from three stream crossings of State Highway 349, FM Road 305 and United States Highway 190, approximately 56, 47, 63 miles east of Fort Stockton, Pecos County; Pecos River, tributary Rio Grande; five acre-feet; one year; TP-5896; March 4, 1988.

South Texas Construction Company; water may be diverted at a maximum rate of 3.35 cfs (1500 gpm) from the stream crossing of a county road, approximately 14 miles southeast of Victoria, Victoria County; Unnamed creek, tributary Black Bayou, tributary Jones Bayou, tributary Goff Bayou, tributary Guadalupe Bay, tributary San Antonio Bay; 10 acre-feet; one year; TP-5897; March 11, 1988.

Young Brothers, Inc., Contractors; water may be diverted at a maximum rate of 0.89 cfs (400 gpm) from two stream crossings of United States Highway 77, approximately one-half and three miles south of Waco, McLennan County; Cottonwood Creek, and Flat Creek, tributaries of Brazos River; eight acre-feet; one year; TP-5898; March 11, 1988.

Exxon Corporation; water may be diverted at a maximum rate of 0.56 cfs (250 gpm) from the reservoir in the vicinity of a private road, approximately 38 miles east of Kingsville, Kleberg County; Laguna Larga, tributary Alazan Bay, tributary Baffin Bay, tributary Laguna Madre; 10 acre-feet; one year; TP-5903; March 11, 1988.

Mitchell Energy Corporation; water may be diverted at a maximum rate of 0.11 cfs (50 gpm) from the stream crossing near United States Highway 380 and State Highway 101, approximately 10 miles west of Decatur, Wise County; Turkey Creek, tributary West Fork Trinity River, tributary Trinity River; two acre-feet; six months; TP-5902; March 16, 1988.

Weirich Bros., Inc.; water may be diverted at a maximum rate of 1.0 cfs (450 gpm) from the stream crossing near United States Highway 290, approximately two miles southeast of Fredricksburg, Gillespie County; Pedernales River, tributary Colorado River; 10 acre-feet; one year; TP-5904; March 24, 1988.

Plano Bridge and Culvert; water may be diverted at a maximum rate of 0.45 cfs (200 gpm) from the stream crossing of State Highway 273, approximately 25 miles southeast of Pampa, Gray County; McClennan Creek, tributary North Fork Red River (flows out of state); eight acre-feet; one year; TP-5909; March 24, 1988.

Dean Word Company; water may be diverted at a maximum rate of 0.67 cfs (300 gpm) from four stream

crossings of State Highway 71, approximately one to five mile radius around La Grange, Fayette County; Cedar Creek and Tanyard Branch, tributaries Colorado River and Colorado River; five acre-feet; one year; TP-5906; March 24, 1988.

Columbus Energy Corporation; water may be diverted at a maximum rate of 0.27 cfs (120 gpm) from the stream crossing near United States Highway 83, approximately two miles south of Laredo, Webb County; Rio Grande; 10 acre-feet one year; TP-5911; March 24, 1988.

Crump Petroleum Corporation; water may be diverted at a maximum rate of 0.89 cfs (40 gpm) from the stream crossing of Murphy Street, approximately two miles southwest of Odessa, Ector County; Monahans Draw, tributary Midland Draw, tributary Johnson Draw, tributary Mustang Draw, tributary Colorado River; one acre-foot; four months; TP-5907; March 24, 1988.

Lee and McWhorter, Inc.; water may be diverted at a maximum rate of 1.12 cfs (500 gpm) from three stream crossings of State Highway 49, approximately 13 1/2, 12, 14, miles west of Linden, Cass County; Regan Creek, tributary Hughes Creek and an unnamed creek, tributary Regan Creek, and Peacock Creek, tributary Hughes Creek, tributary Black Cypress Creek (Bayou), tributary Big Cypress Bayou (flows out of state); one acre-feet; one year; TP-5910; March 24, 1988.

A. K. Gillis and Sons, Inc.; water may be diverted at a maximum rate of 0.56 cfs (250 gpm) from two reservoirs in the vicinity of FM Road 898, approximately 20 miles southeast of Sherman, Grayson, and Fannin Counties; unnamed creek, tributary Bois d'Arc Creek, tributary Red River and Bois d'Arc Creek; 10 acre-feet; one year; TP-5912; April 6, 1988.

Bryco, Inc.; water may be diverted at a maximum rate of 0.34 cfs (150 gpm) from the stream crossing north of FM Road 1331, approximately 23 miles northeast of Georgetown, Williamson County; San Gabriel River, tributary Little River, tributary Brazos River; 10 acre-feet; one year; TP-5919; April 6, 1988.

Ballenger Construction Company; water may be diverted at a maximum rate of 1.12 cfs (500 gpm) from three drainage ditches in the vicinity of FM Road 1925, approximately 4 1/2-10 1/2 miles north of Edinburg, Hidalgo County; drainage ditches, tributary canals, tributary Main Floodway; 10 acre-feet; one year; TP-5917; April 6, 1988.

Tennessee Gas Pipeline; water may be diverted at a maximum rate of 2.23 cfs (1,000 gpm) from Diversion Point Number One, which is the West Bernard Creek crossing of the pipeline, approximately 14.6 miles north of Wharton, and from Diversion Point Number Two, which is the Colorado River crossing of the pipeline, approximately 12.6 miles northwest of Wharton, Wharton County; West Bernard Creek, tributary San Bernard River or Colorado River; six acre-feet; one year; TP-5921; April 8, 1988.

Tennessee Gas Pipeline; water may be diverted at a maximum rate of 2.23 cfs (1,000 gpm) from Diversion Point Number One, which is the West Bernard Creek crossing of the pipeline, approximate 14.6 miles north of Wharton, and from Diversion Point Number Two, which is the Colorado River crossing of the pipeline, approximately 12.6 miles northwest of Wharton, Wharton County; West Bernard Creek, tributary San Bernard River or Colorado River; nine acre-feet; one year; TP-5920; April 8, 1988.

Tennessee Gas Pipeline; water may be diverted at a maximum rate of 2.23 cfs (1,000 gpm) from Diversion Point Number One, which is the West Bernard Creek crossing of the pipeline, approximately 14.6 miles north of Wharton,

and from Diversion Point Number Two, which is the Colorado River crossing of the pipeline, approximately 12.6 miles northwest of Wharton, Wharton County; West Bernard Creek, tributary San Bernard River or Colorado River; eight acre-feet; one year; TP-5922; April 8, 1988.

Hat Creek Outfit Company (Lonesome Dove); water may be diverted at a maximum rate of 0.45 cfs (200 gpm) from the stream crossing one mile from the confluence of Sycamore Creek and Pinto Creek and the Rio Grande, approximately 12 miles northwest of Del Rio, Val Verde County, and approximately 20 miles south-southwest of Brackettville, Kinney; Sycamore Creek and Pinto Creek, tributaries Rio Grande; one acre-foot; six months; TP-5924; April 5, 1988.

Young Brothers, Inc., Contractor; water may be diverted at

a maximum rate of 0.45 cfs (200 gpm) from two stream crossings of State Highway 21/United States Highway 190, approximately 18 and 15 miles east of Bryan, Brazos County; unnamed creek, tributary Navasota River, and Navasota River, tributary Brazos River; two acre-feet; one year; TP-5927; April 11, 1988.

Issued in Austin, Texas, on May 26, 1988.

TRD-8805382

Karen A. Phillips  
Chief Clerk  
Texas Water Commission

Filed: May 26, 1988

For further information, please call (512) 463-7898.



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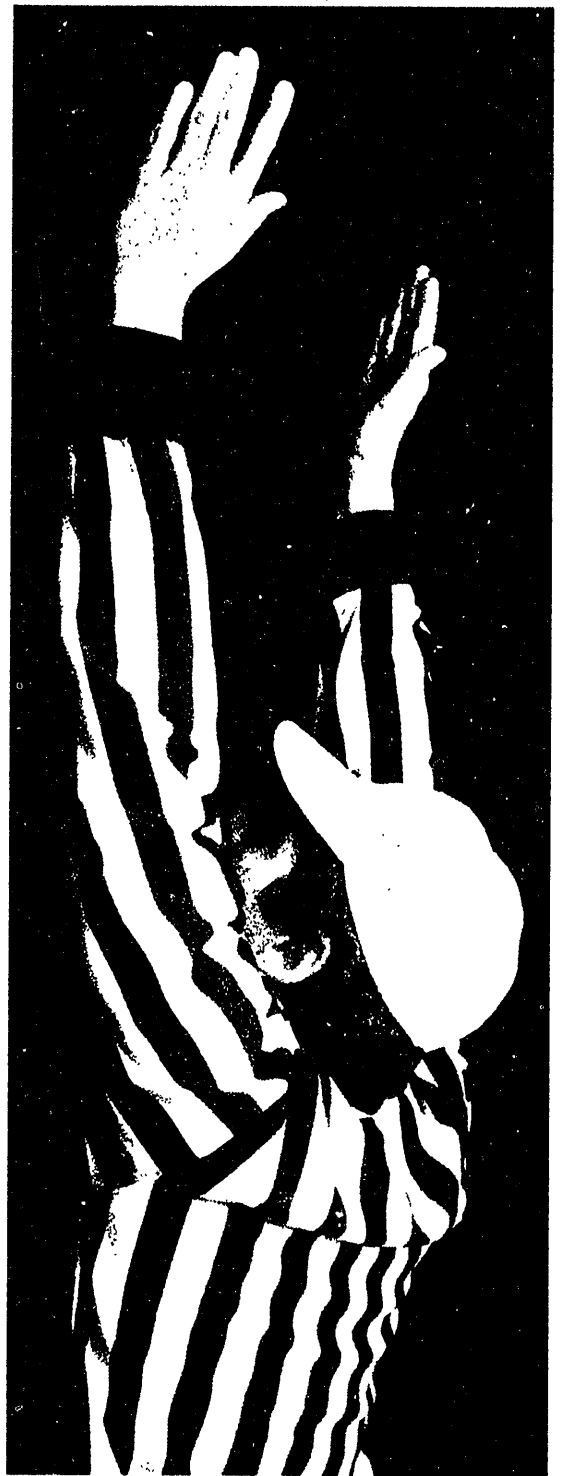
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